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AUDITORS.

AUDITORS:

THEIR DUTIES AND RESPONSIBILITIES

UNDER THE COMPANIES ACTS AND OTHER ACTS OF PARLIAMENT.

BY

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PREFACE

To the Eighth Edition.

This Edition has been rendered necessary owing to the passing of the Companies Act, 1900, the Friendly Societies Act. 1896, and other Acts of minor importance.

When the First Edition of this work was published, exactly twenty years ago, it was intended more for the student than the practitioner, but its favourable reception by the profession, and the frequent references made to it by Her Majesty's Judges, have established its recognition by Members of the Bar and the practising Members of the Institute of Chartered Accountants to such an extent that an attempt has lately been made to induce students to believe that it has become a book less suited to their requirements.

This has never been the intention of the Author, and, with the object of increasing the usefulness of the work for those preparing for the Intermediate and Final Examinations of the Institute of Chartered Accountants, he has in this Edition divided the work, placing that portion referring to the duties of District Auditors and Auditors of Municipal Accounts in a separate volume.

F. W. P.

London,
27th January, 1901.

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LIBRARY OF THE UNIVERSITY OF ILLINOIS

AUDITORS:

THEIR

DUTIES AND RESPONSIBILITIES.

CHAPTER I.

INTRODUCTORY.

Antiquity of the Office of Auditor—Auditors of the Crown—History of Statutory Law relating to Joint Stock Companies—Building and other Societies—General Management of Companies in hands of the Directors—Periodical Meetings of the Shareholders—Statement of Accounts laid before these Meetings—Accounts previously audited by Representative of the Shareholders—Known as the Auditor—Position of Auditor as regards Directors—To what extent Auditors Agents of the Shareholders—Responsibility in connection with issue of Prospectus—Responsibility under the Companies (Winding-up) Act, 1890—Auditor as Officer of a Company—Auditors of Accounts of Universities and Colleges—Of Boards of Conservators—Of Judicial Trustees—Of Charities—Of Merchants—Of Executors and Trustees—Of Landed Proprietors and Private Persons—Auditor appointed Administrator.

Antiquity of Auditors.

The office of Auditor is one of high antiquity, and the date of its origin is difficult, if not impossible, to arrive at. It has certainly existed for six centuries, as in 1299 there is mention of an Auditor of the Accounts of the Corporation of the City of London. In Langland's "Vision of Piers Ploughman," published in 1377, we find the following line, "Of my reue to take Al that myne auditour, or elles my stuwarde Conseilleth me by her acounte," and in Paston's "Letters," 631, II., 388, in 1469, "Send downe . . . . . to some awdyter, to take acomptys of Dawbney's byllys." In 1557, "Ord. Hospitalls," B. IV., *b.*, occurs, "There shall also be chosen Auditors generall of the Accomptys." Shakespeare, in

Shakespeare.

Timon of Athens, puts into the mouth of Flavius the steward :

> "If you suspect my husbandry or falsehood,
> Call me before the exactest Auditors,
> And set me on the proof."

The first record of Auditors in Dublin is in the year 1452, and it would almost seem that the powers of the Auditor of those days even exceeded the powers of the Local Government Auditors of the present time. The surcharge of these Auditors has to be sued for in the ordinary way ; while we read that in 1599, upon the Auditors of Dublin reporting two citizens (*videlicet* Master Nicholas Umfrey and Master Michael Pentney) to be indebted to the city in the sum of six score eight pounds, eleven shillings, seven pence (cxxviij^{li} xj^{s} vij^{d}), it was ordered "by the authority of this post assembly . . . if they do not deliver the said silver pawns accordingly that then the said Master Umfrey and Master Pentney shall yield their bodies to the gaol of Tholsell within this city, and there shall remain to time they do pay and satisfy the said sum of six score eight pounds, eleven shillings, seven pence, or deliver into the Treasury of this city sufficient silver pawns for the same sum."

13th Century views on Auditors.

In Sir Walter of Henley's "Tretyce off Housbandry," a Manuscript of the thirteenth century, which has been printed by the Royal Historical Society, occurs the following sentence in the Chapter "The Office of Seneschal :—

"The Auditors ought to be faithful and prudent, knowing their business, and all the points and articles of the account in rents, in outlays, and in returns of the grange and stock and other things belonging thereto. And the accounts ought to be heard at each manor, and then one can know the profit and loss. . . . The Seneschal ought to be joined with the Auditors, not as head or companion of the account, but as subordinate, for he must answer to the Auditors on the account for his doings, and for his commandments and approvements done by him on the manors. . . . It is not necessary so to

speak to the Auditors about making audit, because of their office, for they ought to be so prudent, and so faithful, and so knowing in their business, that they have no need of other teaching about things connected with the account."

Etymology.

Notwithstanding the fact that the word "Auditor" is always pronounced with the "i" short, there can be no doubt that it is derived from the Latin "Auditor," the ancient practice being for the parties whose accounts were to be audited to attend before the Auditor and vouch them orally, an example of which is given in the paragraph just quoted, the "accounts ought to be *heard* at each manor."

Auditors of the Crown.

Prior to Queen Elizabeth's reign, the Accounts of the Crown were examined by Auditors specially constituted for the purpose, or by the Auditors of the Land Revenue; or at times by the Auditor of the Exchequer, which office, the most ancient of all offices of control, was established in 1314, and continued until 1834, when it was abolished, and a new Department created, termed the Exchequer Office, or the Office of Comptroller-General of the Exchequer.

Auditors of the Imprests.

In 1559, the second year of the reign of Queen Elizabeth, two Auditors of the Imprests were first appointed. They continued in existence until the year 1785, when they were abolished, and their revised duties were taken up by the Office for auditing the Public Accounts. The Auditors of the Imprests were paid by fees chargeable on the accounts they examined. These were at established rates, but were sometimes increased by the Lord High Treasurer, on a memorial from the Auditors that the accounts were more voluminous than they had formerly been, or by a voluntary grant from the Lord High Treasurer, "for the pains" which the Auditors had been at in making up particular accounts.

Naval Accounts.

The Accounts of the Treasurer of the Navy appear to have occasioned the first memorial from the Auditors for an increased allowance; this was in 1630. The two Auditors of the Imprests, as originally appointed, had

no power to call upon parties to render Accounts, but were dependent on the Treasury for obtaining them.

In 1649 the Auditors were empowered by the Committee of Public Revenue, sitting at Westminster, to call before them all such persons as had received any moneys upon Imprest or otherwise, to pass their accounts according to the usual course of the Exchequer. The same Committee abolished fees, and the two Auditors were allowed a fixed salary of £500 a year each "for themselves and their clerks, including all charges for house rent, pens, ink, paper, parchment, and all other incident expenses."

Auditors under Charles II.

With the Restoration of Charles II., the two Auditors returned to the former system of payment by fees and dependence on the Treasury, a practice which remained in force till the abolition of their duties in 1785. In 1783, owing to the increase in the Accounts, the Principals each obtained upwards of £16,000. The retired allowance to each Auditor on the abolition of the office was £7,000 a year. Each Auditor had his Deputy and staff of six or seven clerks.

As an example of the scale of remuneration to the Auditors of the Imprests, the Account of the Chief Cashier of the Bank of England may be quoted, for the Audit of which £100 was allowed for every million of Capital Stock managed by that Company. The fees paid for auditing the Bank Account for the year 1784 exceeded £20,000.

First Audit independent of Government.

The first attempt by the House of Commons to establish a control over the grants of Parliament, and to check the appropriation of supplies, was made in 1667, when it was determined by the House that the money voted for the Dutch War should be *applied only to the purposes of the War*. Commissioners for this purpose were appointed by "An Act for taking the Accompts"; and this may be considered as the first establishment of a Parliamentary Audit, or, in other words, of an Audit to a certain extent independent of the Government.

In 1785, on the abolition of the office of Auditors of the Imprests, its revised duties were taken up by the Office for Auditing Public Accounts. Various other officials for the auditing of the Accounts of Government Departments were from time to time appointed.

The first step was taken towards the establishment of a system of Account, based upon more practical principles, on the occasion of the revision of the Naval Accounts in 1832, when the books in which the details of the Naval expenditure are recorded were recast on a connected plan on the principle of Double Entry.

Public Accountants.

From a Treasury Minute, dated 16th June, 1848, it appears there were about 350 Public Accountants rendering Accounts to the Commissioners of Audit, and the Treasury complained of the delay, in many cases, in presenting these Accounts. The following sentence is worth recording, as being applicable to all audits :—

"My Lords do not understand on what grounds so much delay can have occurred in rendering these Accounts, it being the first duty of an Accountant to submit for audit, in a regular and punctual manner, his Account of the expenditure of the public money entrusted to him ; and if this rule is not strictly enforced, the great advantage of an audit is lost, and it becomes impossible to exercise by means of it an effectual check over the public expenditure."

Exchequer and Audit Department created.

On the 28th June, 1866, the Exchequer and Audit Departments Act (1866) received the Royal Assent, which consolidated the previously independent Offices of the Comptroller-General of the Exchequer and of the Commissioners of Audit, and placed them under an Officer, entitled the "Comptroller-General of the Receipt and Issue of Her Majesty's Exchequer and Auditor-General of Public Accounts" (29 & 30 Vict., cap. 39).

The Comptroller and Auditor-General is the guardian of the public purse, and in the exercise of this control his functions are broadly dual.

(1.) As Comptroller of the Exchequer, it is his duty to

see that all public moneys payable to the Exchequer are duly received and accounted for. On the other hand, no issues of money from the Exchequer can be made without his order, which is granted to the Treasury for the supplies voted by the House of Commons.

(2.) As Auditor-General it is his duty, as succinctly defined by the Exchequer and Audit Departments Act, "to ascertain, first, whether the payments which the Accounting Department has charged to the grant are supported by vouchers or proofs of payment, and, second, whether the money expended has been applied to the purpose or purposes for which such grant was intended to provide."

A general supervision is reserved to the Treasury, which has the power to require the Comptroller and Auditor-General to ascertain that the expenditure has been supported by their authority, and to report to them any expenditure which has been incurred without such authority. The right of appeal to the Treasury is also secured to any Accountant who may be dissatisfied with any disallowance which has been made in his Accounts by the Comptroller and Auditor-General. On the completion of the examination of the Accounts for the financial year, the Comptroller reports to the House of Commons on each of the Accounts submitted to him, and his criticisms are considered by certain members of the House who constitute the Public Accounts Committee.

With the duties of the Officials of Her Majesty's Exchequer and Audit Department this work, however, is not concerned; like those of other servants of the Crown, the duties are prescribed by Acts of Parliament and by Rules and Regulations issued from time to time by the Authorities.

It is evident from the above remarks that the term "Public Accountant" was formerly applied to those Government officials who had to account to the Treasury for the manner in which they had expended public revenue

entrusted to them. Towards the close of the last century, however, mercantile men and others who were unable, either by themselves or their clerks, to keep their books of account, or even, if the books were properly kept, to prepare statements from them, found it to their advantage to seek the aid of expert book-keepers, who were able to devote to this some of their leisure time. In this way arose the growth and development of professional accountancy, the practising members of which were styled Public Accountants.

Chartered Accountants.

The leading members practising in Scotland were successful in obtaining grants of Royal Charters, those practising in Edinburgh receiving one in 1854, followed by Glasgow in 1855, and Aberdeen in 1867, the members of which Societies, incorporated by these Charters, have since been known as "Chartered Accountants."

No similar steps appear to have been taken in England until, in 1870, an Institute of practising professional Accountants was formed, which Institute was successful in obtaining a Royal Charter in May, 1880. Since that date the shareholders of Public Companies have gradually ceased to appoint, from their body, Auditors of their Accounts, and have replaced the amateur Auditor by the Chartered or Professional Accountant.

The vast sums of money embarked in Joint Stock enterprise in Great Britain has caused the position of those who audit the Accounts of such enterprises to assume great importance, and the responsibility attached to the post of Auditor of a Public Company is, consequently, exceedingly heavy.

Increase of Joint Stock Companies since 2nd November, 1862.

Since the 2nd day of November, 1862, the day on which the Companies Act, 1862, came into operation, there has been a marked increase in the number of Associations formed for enabling persons of all classes, trades, and denominations to combine together for the purpose of carrying on to their mutual advantage a single trade or any enterprise for the development of which the

joint-stock principle, as amended by the new Act, offered increased facilities.

For a considerable time previous to the passing of this Act these Associations had been in existence, but until 1844 they were subject to the law which governed ordinary partnerships of two or three persons, and the Promoters of Railway and other Companies had the entire charge of their undertakings, made contracts with landowners and others, and issued prospectuses, on the faith of which subscriptions were received and certificates of shares issued without interference or control on the part of the Legislature.

Joint Stock Companies Registration Act, 1844.

The first Joint Stock Companies Act (called the Joint Stock Companies Registration Act) was passed in 1844, and it remained in force until 1856, when it was repealed, except with regard to Insurance Companies, for which Companies it remained in force until the Companies Act, 1862, came into operation.

The first Act of Parliament making limited liability attainable by Joint Stock Companies was passed in 1855, but this was not brought forward as an independent measure, and was, in fact, merely a graft on the Act of 1844.

Joint Stock Companies Act, 1856.

In 1856, however, Mr. Robert Lowe (afterwards Lord Sherbrooke), who was at that time the Vice-President of the Board of Trade, brought into the House of Commons the Joint Stock Companies Act, 1856, which repealed the previous Acts referred to, and reduced their provisions into a practical system. In 1857 and 1858 four additional Acts were passed, and in order to consolidate the Acts relating to Joint Stock Companies Lord Chelmsford brought a fresh one in twice in 1859, but it did not pass, neither was Lord Campbell more successful in 1860. In 1862, however, the Act now in force (25 & 26 Vict., c. 89) was passed, which has given so great an impetus to Joint Stock enterprise.

Companies Act, 1862.

No provision, however, was made in this Act for the audit of Accounts, although a schedule was attached,

which was applicable to Companies registered without Articles of Association, containing regulations as to audit for those particular Companies only.

The omission of all reference to the presentation of Accounts to the shareholders, and their previous audit, in the Act of 1862, is most extraordinary, when eighteen years previous it was evidently considered that legislation on this subject was desirable. In an Act entitled "An Act for the Registration, Incorporation, and Regulation of Joint Stock Companies," which received the Royal Assent on 5th September, 1844, very full clauses were inserted, providing for the proper keeping of Accounts, the balancing of the books, the preparation of a Balance Sheet, the audit of the same, and the reporting thereon by the Auditors, and it further enacted that a printed copy of the Balance Sheet and of the Auditors' Report should be sent ten days before the annual meeting to every shareholder, and be filed, fourteen days after the meeting, with the Registrar of Joint Stock Companies. Provisions for Audit in Act of 1844.

Several Acts have subsequently been passed which are supplemental to the Act of 1862, and Companies registered under that Act are subject to the provisions of the supplemental Acts, which, together with the principal Act, are styled as the Companies Acts, 1862 to 1900.

The first of these Acts of importance to Chartered Accountants is the Act of 1879, which enacted that the Accounts of every Banking Company registered after the passing of this Act should be examined by an Auditor, and, when within the following years many of the leading Joint Stock Banks registered under this Act, they took the opportunity of displacing the shareholder-auditor and elected Chartered Accountants to the office.

The Companies Act, 1900, enacted, for the first time since the Act of 1844, that every Company shall have at least one Auditor, and prescribed his mode of appointment, and to a limited extent his rights and duties.

An entirely new provision was introduced into this Act, by which, seven days before the statutory meeting of a

new Company, the Directors are required to send a report to each shareholder, which report has, so far as it relates to the shares allotted by the Company, and to the cash received in respect of such shares, and to the receipts and payments of the Company on capital account, to be certified as correct by the Auditors, if any have been appointed.

Companies incorporated by special Acts.

In addition to the Companies registered under the Acts of 1862 to 1900, there are those registered under various other public Acts (including Railway Companies, Gas and Water Companies, Life Assurance Companies, Building Societies, Friendly, and Industrial and Provident Societies, and Savings Banks), as also those incorporated by special Acts of Parliament. The latter are, of course, subject to certain public Acts in addition to their own private ones.

Mining Companies in the Stannaries.

There are many Companies, in Devon and Cornwall, formed for the purpose of owning and working mines. These Companies were formerly amenable to the Court of the Vice-Warden of the Stannaries, for the purpose of common law, in matters relating to Miners and Mines; but this Court was abolished on the 1st January, 1897, and its jurisdiction and powers were transferred to the various County Courts. The working of the Stannary laws as now existing constitute, as regards mines, what is known as the Cost Book principle.

This system allows any number of persons to be partners or shareholders in a Mine, the shares are usually in number 512, or multiples of these numbers up to over 5,000, and a shareholder may hold one or any greater number, which he can dispose of without the consent of his brother shareholders. Should he so desire, he can at any time determine his liability by relinquishing his share and paying such proportion of any debts then existing up to that date, the amount being ascertained by valuers.

The Acts of Parliament now in force relating to these Companies are The Stannaries Act, 1869 (32 & 33 Vict., c. 19), and The Stannaries Act, 1887 (50 & 51 Vict.,

c. 43), the sections of which referring to the Accounts and Audit thereof will be found in Chapter III.

Building Societies.

The first Building Society was founded in 1809, and was followed by many others. Previously to 1836, however, no special legislation existed for them, and they were considered ordinary Joint Stock Companies. About this time a proposition was made by the Chancellor of the Exchequer to charge a duty on shares in Joint Stock Companies which were transferable. This alarmed the Building Societies, who protested so successfully against the proposed duty being applied to them that an Act was passed for their regulation, and although this Act was described by the Royal Commissioners as "one of the worst drawn which yet remain in the Statute-book," it remained in force for nearly forty years.

In 1874 the Building Societies Act, 1874 (37 & 38 Vict., c. 42), was passed, under which most of the Building Societies now in existence are incorporated ; but as it does not affect Societies registered under the Act of 1836 unless they become incorporated under the new Act, the provisions of the Act of 1874 do not apply to all Building Societies. The Act of 1836 is, however, by the Building Societies Act, 1894 (57 & 58 Vict., c. 47), repealed from the 25th August, 1896, as to Societies certified thereunder after 1856.

The Act of 1894 prescribed that a Form of Accounts should be prepared by the Chief Registrar of Friendly Societies for use by Building Societies, and contain certain information ; it also enacted that one of the Auditors of each Society shall be a person who publicly carries on the business of an Accountant.

In the Reports of the Chief Registrar of Friendly Societies for the year ending 31st December, 1894, presented to Parliament, that official states that a number of questions have been addressed to him as to who fulfils this requirement of the Act. In the opinion of the Registrar, a person who publicly carries on the business of an Accountant is one "who could, if required, under Section

21 of the Act, append to his signature as Auditor a statement that he is a person who publicly carries on, at some specified place, the business of an Accountant, and would be subject to the penalty provided by Section 22 of the Act if the statement should be proved to be false," and further, he adds, "It would seem that the turning point of the definition in the Act lies in the word 'publicly,' and, therefore, that many men who possess excellent credentials as Accountants in private employ, or in positions where the public cannot come to them and give their accountancy work to, are not within it. To put the matter in familiar terms, the essential part of the qualification is a brass plate or other public notification that the business of an Accountant is carried on."

Savings Banks.

On the 11th July, 1817, was passed an Act for the purpose of encouraging the establishment of Banks for Savings in Ireland, and on the following day a similar Act was passed for the encouragement of Savings Banks in England, which Act was amended in the following year. Savings Banks were first legally recognised in Scotland in 1819 by the Act 59 Geo. III., c. 62.

The Act 1 Geo. IV., c. 83, altered the procedure of dealing with the funds of Savings Banks as an investment with the Commissioners for the Reduction of the National Debt at the Bank of England, and prescribed that receipts bearing interest at 3d. per cent. per diem were to be given for moneys invested.

Under the Acts 5 Geo. IV., c. 62, and 9 Geo. IV., c. 92, the state of the law relative to Trustee Savings Banks began to assume its present form, and the former of these Acts of Parliament was the earliest Statute dealing with Banks in both England and Ireland.

Act of 1844.

Several Acts were passed in the reign of William IV., and an Act was passed in 1844 which, amongst other amendments of the law, prescribed that Auditors were to be appointed, and certain duties to be performed by them were specified. The depositors' Pass Books were to contain a copy of the rules, which rules were to provide

for the production of Pass Books for the purpose of their being inspected, examined, and verified. Acts were passed in 1854, 1859, and 1860, and in 1861 Post Office Savings Banks were first established.

In 1863 so many Acts were in force relating to Savings Banks that a new Act was passed, known as the Trustee Savings Banks Act of 1863, which repealed, so far as Trustee Savings Banks were concerned, all previous Savings Bank legislation, with the exception of the provisions contained in 24 Vict., c. 14, and 26 Vict., c. 14, and set forth in one measure the statutory enactments relating to Trustee Savings Banks, and this is still the chief Act of Parliament controlling the conduct and management of this class of Savings Banks. By this Act it was provided that a public Accountant or one or more Auditors was to be appointed by the Trustees and Managers, but not out of their own body, to examine the books of the Bank and to report in writing to the Board or Committee of Management the result of such audit not less than once in every half-year; also to examine an extracted list of the depositors' balances, made up every year to the 20th November, and to certify as to the correct amount of the liabilities and assets of the Bank. It also prescribed that a book containing such extracted list of every depositor's balance, omitting the name, but giving the distinctive number and separate amount of each, and showing the correct number and amount of the whole, checked and certified by such public Accountant or Auditors, should be open, at any time during the hours of public business, for the inspection of every depositor in relation to his own account. A further Act was passed in 1880, and another one in 1887; and in 1891 was passed the Act for the establishment of an Inspection Committee of Trustee Savings Banks, which, in addition to giving certain powers to this Committee, also prescribed that, if in the opinion of the Committee the rules of a Savings Bank are insufficient for the purpose of maintaining an efficient

Act of 1863.

Acts of 1880, 1887, and 1891.

audit, the Bank shall with all convenient speed make such additional rules as may, in the opinion of the Committee, be required for the purpose.

Limited Companies.

The majority of Companies now in existence are registered under the Act of 1862; and these Associations, known generally under the name of Limited Companies (although the Act of 1862 provides for the incorporation and management of unlimited Companies), have invaded almost every department of commerce and trade, and the capital embarked in these undertakings is enormous.

All classes of persons who have either inherited or acquired means, even the artizan who out of his wages has saved a few pounds, is interested more or less in the management and welfare of these Associations, and every person holding a share is consequently a partner in each one in which he is a shareholder.

Directors.

As, however, it would be impossible for each of the partners in these undertakings, as well as in those Companies registered under other Acts of Parliament, and in Building, Friendly, and other Societies, to have a voice in the general management of the business, in the same manner as have the partners in a private firm, it is the practice to delegate this power to a few (varying according to the size and the nature of the business of the Company or Society) of their number, now generally styled Directors, who undertake the superintendence and the administration of the affairs of the Company or Society on behalf of themselves and of their co-partners.

Meetings of Members.

The Directors have periodically to meet the general body of Members for the purpose of accounting to them the manner in which they have fulfilled their duties. If these have been performed to the satisfaction of the Members, they usually continue the Directors in their position; but, should the former be dissatisfied with their representatives, they elect others out of their body to take the place of those Directors who retire by rotation, it being the custom for about a third or a

quarter of the Board to vacate their seats annually, in order to give the Members the opportunity of introducing fresh representatives should they consider a change in the administration desirable.

Usually held yearly or half-yearly, at which Accounts are submitted.

The meetings of the Members are almost invariably held yearly or half-yearly, previous to which Accounts are prepared showing the result of the transactions of the Company or Society since the previous meeting (or, if the Company or Society be a new one, since its incorporation), which Accounts are, as a rule, printed and sent to all the Members, in conjunction with a Report of the Directors and a notice convening the meeting.

The Members have, therefore, the opportunity of ascertaining what has been the result of the transactions of their undertaking since its incorporation, or their last meeting, and of considering, before they are brought together, what steps, if any, they shall take at the meeting, supposing the facts as disclosed by the Accounts, and the report of the Directors, are not satisfactory.

Accounts previously examined by representative of the Members.

As it would be impossible in many instances, and very inconvenient in all, for each partner to examine these Statements of Accounts with the Books kept at the offices of the Company or Society, and frequently elsewhere, their correctness is usually certified by their representative or representatives, elected annually, for the purpose of ascertaining that the funds of the Company or Society have been properly accounted for, that such of them as have been expended have been applied in the manner indicated in the Accounts, that the unexpended portion is invested as stated in the Accounts, and generally that, in their opinion, the Accounts, as put forward by the Directors for adoption by their co-partners, are accurate in every respect, and to be relied on as showing the result of their management and the true position of their Company or Society, as set forth in the Balance Sheet.

Known as the Auditor.

This representative of the Members is known as the "Auditor," and the principal object of this treatise is to

point out the duties and responsibilities of those who have to investigate the books and affairs of a Company or Society, before the Accounts, as prepared by the Directors, are placed before the Members at their periodical meetings for their approval, confirmation, and adoption.

Position of the Auditor as regards the Directors.

It is evident that the duties of an Auditor are not only onerous and responsible, but frequently intricate, and at times even disagreeable. It may happen that he differs with the Directors as to the manner in which the Accounts shall be stated, or as to other matters connected with his office. As the representative of the Members, his principal obligation is, of course, to have regard to their interests, and though he may be accused by the Directors of interfering with what they may consider their own particular duties, he should not allow their arguments to persuade him when he feels sure his suggested alterations, so far as they relate to the particular duties entrusted to him by law, would, if carried out, be beneficial to the general body of the shareholders.

Usually on good terms with them.

As a rule, however, Directors are men of honour and integrity, and when this is the case an Auditor will find his occupation easy and pleasant to perform. He will obtain ready access to all books, documents, and securities, and every facility will be afforded him in the prosecution of his audit. Any questions he may ask will be immediately and satisfactorily answered, and any suggestions he may make for an alteration in the mode of keeping the Books, or in the Accounts submitted to him for confirmation, will be carefully considered, and, if approved, as being likely to prove advantageous on adoption, will be directed to be carried out.

Except when they have neglected their duty.

If, on the other hand, the Directors have neglected their duties or have intentionally prepared false Accounts to be laid before the Members, the Auditor has not only a very responsible, but also a very unpleasant and difficult, task before him. Every possible obstacle is thrown in his way to prevent his discovering and exposing their intended deceptions; but the Auditor should be firm, should require

all his questions answered, and each unsatisfactory item explained before he affixes his Certificate to the Accounts.

He should not allow himself to be tired out and hurried into signing them before he is thoroughly satisfied they are absolutely and entirely correct. The Directors are in his power if he be firm, as, in the case of Companies registered under the Companies Acts, 1862 to 1900, he is required to state whether or not his requirements as Auditor have been complied with, and in any case they would be placed in an embarrassing position if they attempted to face the meeting of the shareholders without the Auditor's Certificate.

At the same time an Auditor must remember that it is no part of his duty to interfere in the management, which is entrusted solely to the Directors. His duty is strictly confined to ascertaining that the results of their management are correctly laid before the shareholders to the best of his knowledge and belief. It is possible he may not be satisfied in his own mind that a value put upon an asset is not excessive, and that he would not himself purchase it at that price—that would not be any justification for his expressing this unfortified opinion in his Certificate or Report. Should he do so, he might prevent the estimate of the Directors being ultimately realised, and thus injure his own clients, the shareholders.

Shareholders have two representatives.

The shareholders of a Company may, therefore, be said to have two representatives of their interests, the one administrative, as represented by the Directors, the other critical, in the person of their Auditor. The latter is therefore a kind of check on the former, and frequently prevents the Directors from acting impulsively or recklessly, they knowing their transactions will ultimately be reviewed calmly and impartially by the Auditor, who will communicate the result of his investigation and criticism to the shareholders, to be acted upon by them as they may think proper at their meeting. It is apparent, therefore, as before stated, that the Auditor has it

in his power to render great and important services to the shareholders.

Auditors as Agents of the Shareholders.

As to how far the Auditors are the agents of the shareholders, Turner, L.J. (*Nicol's Case*, 3 De G. & J. 387, 411), said, with respect to fraudulent representations made by the Directors of a Company as to its position, "There were Auditors of this Company appointed by the shareholders. These Auditors were within the scope of their duty, at least as much the agents of the shareholders as the Directors were, and the false and fraudulent representations were discoverable by them." Lord Chelmsford, however, in *Spackman v. Evans*, L.R. 3 H.L. 236, expressed a doubt whether the learned Lord Justice was correct in treating the Auditors in that case as the agents of the shareholders, or in holding that in the exercise of their duty they would necessarily have discovered the fraudulent representations of the Directors, and continued, "It seems to me that it would be an unreasonable conclusion, from this mode of appointment of these officers, that they were thereby constituted agents so as to conclude the Shareholders by their knowledge of any unauthorised acts of the Directors. It would be no part of their office to inquire into the validity of any transaction appearing in the Accounts of the Company," . . . "the duty prescribed for the Auditor is to inspect, examine, and check the receipts, payments, vouchers, and Accounts of the Company."

In the same case Lord Cranworth stated (p. 196)—"It was said that all the facts must have been known to the Auditors, and that they, being appointed by the shareholders, must be treated as their agents. The Auditors may be agents of the shareholders so far as relates to the audit of the Accounts. For the purposes of the audit, the Auditors will bind the shareholders."

Directors' Liability Act, 1890.

Until the passing of the Directors' Liability Act, 1890, it was never considered that Chartered Accountants or others who allowed their names to appear on the prospectuses of new Companies as Auditors incurred any

liability by reason of untrue statements in the prospectus. Section 3, Subsection 1, of this Act, however, throws responsibility on persons who have authorised the issue of a prospectus, and consequently, as Chartered Accountants are frequently in the course of their practice brought into connection with the prospectus of an intended company, it was suggested that their professional employment might bring them within the category of persons who have authorised the issue of a prospectus.

The Council of the Institute of Chartered Accountants, deeming the matter of the greatest importance, submitted a very full case to Counsel, who gave their opinion that a Chartered Accountant can only be liable under the Directors' Liability Act, 1890, if he so conducts himself as to become a promoter, or to authorise the issue of a prospectus or notice inviting subscriptions. Counsel also gave as their opinion that a Chartered Accountant does not authorise the issue of a prospectus or notice within the meaning of the Act by merely permitting his name to be mentioned in the prospectus or notice as Auditor ; or by merely permitting a professional report made by him to be referred to in it ; or by merely preparing or advising upon it, or assisting in its preparation professionally.

Companies (Winding-up) Act, 1890.

Under the Companies (Winding-up) Act, 1890 (53 & 54 Vict., c. 63), it is prescribed by Section 10 that where in the course of a winding-up of a Company it appears that (*inter alias*) any past or present Director, Manager, Liquidator, or other Officer has been guilty of any misfeasance, the Court may examine into his conduct, and compel him to repay any moneys otherwise misapplied, or for which he has become liable or accountable, together with interest, or to contribute such sums of money to the assets of the Company by way of compensation in respect of misapplication or misfeasance.

In *Carter's Case*, 31 Ch. D. 496, a Solicitor was held not to be an officer under Section 165 of the Companies Act, 1862. *In re Great Wheal Polgooth*, 49 L.T. (N.S.) 20, is to the same effect. The same has been held of a

Banker in *In re Imperial Land Company of Marseilles*, L.R. 10 Eq. 298, but where Auditors who had been appointed by a Banking Company in pursuance of the Companies Act, 1879, Section 7, and were spoken of as Officers of the Company in the Articles of Association, the Court of Appeal held that they were Officers within the meaning of the 10th Section of the Companies (Winding-up) Act, 1890, and if guilty of misfeasance may be made liable in proceedings under that section.—*In re London and General Bank* (*No.* 1) [1895] 2 Ch. 166.

Auditor as Officer of a Company.

The question as to whether an Auditor is an Officer of every limited liability Company under the Act of 1862 subsequently came before the Court of Appeal, who decided that, as no substantial reason was given why the case differed, they decided that in a case identical with *In re The London and General Bank* an Auditor is an Officer (*In re Kingston Cotton Mill Company, Limited*, [1896] 1 Ch. 6). This decision was appealed against, but was settled before it was reached by the House of Lords.

Auditors of Universities and Colleges.

The Universities of Oxford and Cambridge Act, 1877 (40 & 41 Vict., c. 48), enacted that the Commissioners for each University appointed by the Act should in Statutes made by them make provision for the audit of the Accounts of the University and of its Colleges, and accordingly the University of Oxford Commissioners made a Statute on the 16th June, 1881, that the Hebdomadal Council should annually appoint a University Auditor, who must be either a professional Accountant carrying on business in London or Westminster, or (if they think fit) a person conversant with Accounts approved by the Permanent Secretary to the Treasury. Nearly if not all the Colleges have Statutes to the same effect for the audit of the College Accounts, and consequently the Accounts of the University Chest and of the Colleges of Oxford referred to are audited by Chartered Accountants.

The University of Cambridge is, however, behind the sister University in this respect, as the Accounts of the

University Chest and of its Colleges are still audited by amateurs.

By the Salmon Fishery Act, 1865 (28 & 29 Vict., c. 121, s. 29), an account of the receipts and disbursements of every Board of Conservators, in such form and with such particulars as may be required by the Court of Quarter Sessions that appoints the Board, or any case of a Joint Board by the Court of Quarter Sessions of the Audit County, shall be laid annually before such Courts of Quarter Sessions as aforesaid, and the Justices assembled at such Courts may disallow any item that they consider to be illegal. Audit of Accounts of Conservators.

By the Judicial Trustees Act, 1896 (59 & 60 Vict., c. 35, s. 17), the Accounts of every Trust of which a Judicial Trustee has been appointed are required to be audited, and a report thereon made to the Court by the prescribed persons, and by the rules made under this Act the person to audit these Accounts shall be an Officer of the Court, but the Court, if it considers that the Accounts are likely to involve questions of difficulty, may refer them to a professional Accountant for report. Audit of Accounts of Judicial Trustees.

Notwithstanding the defalcations which occur from time to time of Charitable Funds, no law has yet been passed to compel all such institutions seeking subscriptions from the public to submit their Accounts to professional Auditors, but the Boards of Management of the Hospital Sunday and Hospital Saturday Funds will not make any awards to those Institutions who do not present their Accounts in a certain form duly certified by a professional Auditor. Accounts of Charities.

At present there is no legal obligation on merchants and others trading either alone or in co-partnership with others to submit their Accounts periodically to Auditors; the practice, however, of doing so voluntarily is becoming very general. The certificate of a professional Auditor is useful in many ways. In addition to the great moral effect the periodical visit of a professional Auditor has on the cashier and other members of the staff, disputes as to Income Tax, adjustments of Accounts between partners, especially Auditors of Accounts of Merchants.

where one or more leaves the management of affairs to other partners, negotiation of loans from Bankers and others, are all more easily arranged.

In the event of the death of a partner, or the dissolution of the partnership, either by consent or by effluxion of time, the fact of the Accounts having been periodically audited is of the greatest assistance in the settlement between the various parties interested.

Every partner has a right to have accurate Accounts kept and to have free access to them.—*Rowe v. Wood*, 2 Jac. & W. 558 ; *Goodman v. Whitcomb*, 3 V. & B. 36.

Auditors on behalf of Sleeping Partners.

It is a common occurrence for persons to advance money to others in business, taking either a fixed rate of interest or a share of the profits, or both, without taking any part in the management of the business. In these cases it is most important, more especially on behalf of the sleeping partner, that the Accounts be periodically audited.

It is frequently arranged, under these circumstances, that the Accounts as certified by the Auditor shall be binding on all parties. When this is the case, the Auditor should be made aware of the fact, otherwise a new Account may have to be taken.

In a case decided by the House of Lords, taken on appeal from a judgment by the First Division of the Court of Session, Scotland, the appellant had advanced £15,000 to the respondent, to be used in the business of the respondent for five years. In return for the advance, the appellant was to receive interest and $37\frac{1}{2}$ per cent. of the profits of the respondent's business. The contract stipulated that there should be an annual audit of the respondent's business by a firm of Chartered Accountants, and that their Certificate as to the profits should be binding on both parties. For four years the respondent's books were audited by a member of the firm of Chartered Accountants. Subsequently the appellant raised this action against the respondent for a Judicial Account, on the ground that the audits had not been in terms of the agreement, in respect that the Auditor did not know that his estimate of

the profits was to be binding on the appellant and respondent. The Auditor swore in his evidence that he did not know of this agreement, and that, if he had, he would have made out the Account in a somewhat different form. The House of Lords held that there must be a new Account taken, the Auditor being unaware that his audit was to be final between the parties.—*Teacher v. Calder* [1899] A.C. 451.

Audit of Accounts of Executors and Trustees.

Persons interested under a will are now not content to accept what may be handed to them without the certificate of a professional Auditor that the amount has been ascertained after an examination of the books and papers of the Executors and Trustees, while Executors and Trustees themselves are entitled on their own initiative to employ Chartered Accountants to audit their accounts.

Of Accounts of Landed Properties.

The proprietors of landed estates as a rule require the books of their Agents to be submitted to a professional Auditor for the purpose of ascertaining that their rents and other revenues are collected and accounted for.

Many persons also now entrust to Auditors the examination of the Accounts of their private businesses, or, when not engaged in business, of their private investments, and even of their household expenses.

Auditor appointed Administrator.

Where all parties interested in the estate of a deceased person had entered into a compromise, with a view to putting an end to all further disputes and litigation, upon the basis that a Chartered Accountant, a stranger in blood, who had been employed by the deceased in auditing his Accounts, should apply for and obtain a grant of Letters for Administration, with the will and codicils annexed, the Court, upon his application, and subject to the consents of all the persons interested in the estate, and subject to an affidavit of the fitness of the proposed Administrator being filed, made the grant to him under the Probate Act, 1857, sec. 73.—*Potter, in the Goods of, Potter v. Potter* [1899] P. 265.

CHAPTER II.

APPOINTMENT AND REMUNERATION OF AUDITORS.

Audit of Accounts of Companies registered under Companies Act, 1862, made compulsory by Companies Act, 1900—Appointment under Companies Act, 1879—Under Companies Act, 1900—Under Companies Clauses Consolidation Act, 1845—By Board of Trade—Audit of Accounts of Life Assurance Companies not compulsory—Appointment of Auditors under Building Societies Acts—Under Friendly Societies Act, 1875—Under Industrial and Provident Societies Act, 1893—Auditors occasionally appointed to guard special interests—Opinion of Counsel on the appointment of firms as Auditors—Remuneration of Auditors of Companies—Decision of Court—Scale of Remuneration of Public Auditors—Remuneration of Private Auditors of Firms and Individuals—Of Executors and Trustees.

Compulsory by Companies Act, 1900, to have Auditors.

The Companies Act, 1900, has, as already stated, made it compulsory upon Companies, registered under the Companies Acts, 1862 to 1900, to have Auditors, which Auditors may, in the case of a new Company, be appointed by the Directors before the Statutory Meeting, and, if so appointed, they remain in office until the first Annual General Meeting of the Shareholders, when they retire, but are immediately eligible for re-election by the shareholders, in whose hands the right of election of the Auditors thenceforward rests. The shareholders, however, have the power, after Auditors have been so appointed, of removing them by a resolution passed at a General Meeting, in which case the shareholders can, at such meeting, appoint other Auditors in their stead.

It is frequently urged from time to time that, because the first Auditors are nominated by the Directors, they are less liable to be independent than would be Auditors who were selected by the shareholders. There is no foundation for such a statement, as the appointment, once made by the Directors, is irrevocable, so far as the Directors are concerned, and

the Auditors from that moment are perfectly independent of their influence, and the shareholders have the opportunity at each Annual Meeting of changing the Auditors should they desire to do so.

Appointment of Auditors in event of casual vacancy.

Should a casual vacancy occur in the office of Auditor, the Directors may forthwith fill the same; but, should there be two or more Auditors, then the surviving or continuing Auditor or Auditors may act alone.

Should an appointment of Auditors be not made at an Annual General Meeting, the Board of Trade may, on the application of any member of the Company, appoint an Auditor for the current year, and fix the remuneration to be paid to him by the Company for his services.

The sections of the Companies Act, 1900, and of the First Schedule of the Companies Act, 1862 (Table A), which especially refer to the Auditors are set forth in detail hereafter, as are also the five preceding sections of Table A, which prescribe what Accounts have to be kept by the Directors and submitted to the Auditors in the case of those Companies which are not registered with Articles of Association.

Auditors of Banking Companies registered under Companies Act, 1879.

The Companies Act, 1879, which received the Royal Assent on the 15th August of that year, made it compulsory upon every Banking Company registered since that date as a limited Company to have its Accounts examined by one or more Auditors, who are to be elected annually by the Company in General Meeting. An Auditor, on quitting office, is at once eligible for re-election.

Should any casual vacancy occur, the surviving Auditor or Auditors may act alone, but should there be no surviving Auditor the Directors have to forthwith call an Extraordinary General Meeting for the purpose of supplying the vacancy or vacancies. It is not perhaps clear as to whether these special provisions are superseded by the Act of 1900, which, as already stated, gives power to the Directors to fill a casual vacancy in the office of Auditor, but Mr. F. B. Palmer, in his work on this Act,

states "it is apprehended that the general enactment should not be held to interfere with the special legislation of the Act of 1879. *Generalia specialibus non derogant.*"

Companies Act, 1862.

Most Companies registered under the Act of 1862 have Articles of Association, with sections in them which refer to the Auditors. In all cases where these sections differ from Sections 21, 22, and 23 of the Act of 1900, those of the Act have effect.

Appointment of Auditors.

The first Auditors are usually appointed by the Directors, and they remain in office until the first Annual General Meeting of the shareholders, when they retire, but, being eligible for re-election, are, as a rule, continued in their appointment.

Advantages of re-electing retiring Auditors.

The custom of electing the same Auditors annually is a very sensible one. It is a great mistake to change the Auditors so long as the shareholders are satisfied they do their duty properly. The longer an Auditor is in office the more familiar he becomes with the business of the Company, and consequently the more likely to detect any inaccuracies in the Accounts, either accidental or intentional.

Companies incorporated by special Act.

When a Company has been incorporated by special Act of Parliament, such Act is incorporated with the Companies Clauses Consolidation Act, 1845 (8 Vict., cap. 16), whose clauses and provisions, save so far as they are expressly varied or excepted by the private Act, apply to the Company incorporated by such Act, and to the undertaking for carrying on which such Company has been incorporated, so far as the same are applicable thereto respectively; and such clauses and provisions, as well as the clauses and provisions of every other Act which are incorporated with the private Act, form part of such Act, and are construed together therewith as forming one Act.

Appointment of Auditors.

With respect to the appointment of Auditors of Companies incorporated by special Act of Parliament, it is enacted by the Companies Clauses Consolidation Act, 1845, that unless, by the special Act, Auditors are

directed to be appointed otherwise than by the Company, the shareholders present, personally or by proxy, shall, at the first Ordinary Meeting after the passing of the special Act, elect the prescribed number of Auditors, and if no number is prescribed, two Auditors ; and at the first Ordinary Meeting of the Company in each year thereafter the Company shall elect an Auditor to supply the place of the one retiring from office.

An Auditor once elected, unless he be removed or be disqualified or resign, continues to be an Auditor until another is elected in his stead.

Where no qualification is prescribed by the special Act, every Auditor, except of Railway Companies, is obliged to hold at least one share in the undertaking, but he is not allowed to hold any office in the Company, or be in any other manner interested in its concerns, except as a shareholder. Qualification

One of the Auditors (to be determined in the first instance by ballot among themselves, unless they otherwise agree, and afterwards by seniority) goes out of office at the first Ordinary Meeting in each year, but he is at once eligible for re-election, and after any such re-election he is, with respect to the going out of office by rotation, deemed a new Auditor. Mode of re-election.

Should a vacancy occur among the Auditors during the current year, then, at any General Meeting of the Company, the vacancy may, if the Company think fit, be supplied by election of the shareholders.

If at any meeting at which an election of Auditors ought to take place the prescribed quorum are not present within an hour of the time appointed for the meeting, no election of Auditors shall be made, and the meeting stands adjourned to the following day at the same time and place ; and if at such adjourned meeting the prescribed quorum are not present within an hour from the time appointed for the meeting, the existing Auditors shall continue to act until new Auditors are appointed at the first Ordinary Meeting held in the following year. Quorum at meeting.

Auditors of Railway Companies need not be shareholders.

With reference to the appointment of Auditors to Railway Companies, the Regulation of Railways Act, 1868, enacts that the sections in the Companies Clauses Consolidation Act, 1845, which makes it necessary for an Auditor to hold at least one share, shall not apply, and consequently their Auditors need not be shareholders.

Board of Trade may appoint Auditors of Railway Companies.

The Regulation of Railways Act, 1868, also enacts that the Board of Trade may, upon application made in pursuance of a resolution passed at a meeting of the Directors, or at a General Meeting of the Company, appoint an Auditor in addition to the Auditors of such Company, and it shall not be necessary for any such Auditor to be a shareholder in the Company.

Auditor appointed by Board of Trade under Metropolis Waterworks Act, 1871.

Under the Metropolis Waterworks Act, 1871, an Auditor is appointed by, and is removable by, the Board of Trade (Local Government Board), whose duty it is to audit the Accounts of the Companies once in every half-year. This Auditor, who is usually known as the Government Auditor, performs his duties independently of the Auditors appointed by the shareholders.

Under the Electric Lighting Acts.

In the Form of Provisional Order under the Electric Lighting Acts of 1882 and 1888, issued by the Board of Trade in November, 1892, for Undertakers, being a Company or Person, the Annual Statement of Accounts have to be examined and audited by an Auditor appointed by the Board of Trade. This Auditor also performs his duties independently of the Auditors appointed by the shareholders.

These Auditors are appointed, not in the interests of the shareholders, but to protect the consumers of water and electric light respectively, and the question having arisen as to whether the shareholders of an Electric Lighting Company could appoint the Official Auditor as the Auditor of the Company, the Board of Trade, in a letter dated 18th December, 1895, addressed to the Institute of Chartered Accountants, stated that they held it to be outside the province of this Auditor to act as

Auditor on behalf of the shareholders, as the audit conducted by this Auditor is of a different character to that of a shareholders' audit, and has in view different objects.

Life Assurance Companies Act, 1870, does not provide for audit of Accounts.

The Life Assurance Companies Act, 1870, which enacts that the Accounts of all Life Assurance Companies shall be deposited annually with the Board of Trade, does not provide that such Accounts shall be submitted to any Auditors. This was certainly a grave omission, and will no doubt be rectified in a future Act, as there is no class of Company which so imperatively demands a strict investigation of its Accounts. It is true that nearly all Life Insurance Companies have Auditors, but their names show that their qualification for these important appointments is less considered than the fact of their being men of position and influence. They are usually elected by the shareholders, or, in the case of a "Mutual" Company, by the assured at the Annual Meetings. All Life Assurance Associations or Companies registered under the Companies Act, 1862, come under the provisions of the Companies Act, 1900, as regards audit.

Auditors of Building Societies.

The Building Societies Act, 1874 (37 & 38 Vict., c. 42), contains a clause requiring that the rules of every society established under the Act shall set forth the manner of appointing, remunerating, and removing its Auditors, and Section 3 of the Building Societies Act, 1894 (57 & 58 Vict., c. 47), enacts that one of these Auditors shall be a person who publicly carries on the business of an Accountant.

In the majority of Building Societies one Auditor is usually appointed by the Directors, and two other Auditors are selected at each Annual Meeting out of the body of the members.

Auditors of Friendly Societies.

The Friendly Societies Act, 1896 (59 & 60 Vict., c. 25), enacts that every registered Society and Branch shall once at least in every year submit its Accounts for audit, either to one of the Public Auditors referred to below, or to two or more Auditors appointed by the Society or Branch ;

but it does not lay down any rule as to their mode of election, beyond stating they shall be appointed as the rules of each particular Society or Branch provide. The Treasury may from time to time appoint Public Auditors for the purposes of this Act, but it is optional with the Societies whether they employ any of these Public Auditors, or choose others to fill the appointments.

Auditors of Industrial and Provident Societies.

The Industrial and Provident Societies Act, 1893 (56 & 57 Vict., c. 39), prescribes that the Accounts of all Societies registered under this Act shall once at least in every year be submitted for audit, either to one of the Public Auditors, or to two or more persons appointed as the rules of the Society provide, and the regulations respecting the Auditors are almost identical with those of the Friendly Societies Act.

Although many Chartered Accountants and others have been appointed by the Treasury Public Auditors under these Acts, the Societies have not hitherto taken advantage of these appointments, and seem to prefer Auditors chosen out of their members.

Auditors occasionally appointed to guard special interests.

In a few Companies, Auditors are appointed to look after the interests of a particular class or section of those concerned in their welfare.

For instance, some Assurance Companies have Auditors for the Assured as well as for the Assurers or shareholders. Occasionally the Debenture Holders of a Company have their own Auditor, as have also the Preference Shareholders.

Many Companies, principally financial, have been formed with "Founders' Shares," the holders of which are entitled to a proportion of the profits after the other shareholders have received a minimum dividend. In all these cases their specially appointed Auditors have to ascertain their clients receive their full privileges, and that the reserves for depreciation, for loss on realisation of debts, and the general reserve, are not unduly high.

The appointment of such Auditors is usually made at meetings of the holders of the shares or debentures, or the

Assured, as the case may be, specially summoned for the purpose of making the appointment, or at the Annual Meetings, when the other Auditors are elected.

These cases are, however, exceptional; in nearly all Companies the Auditors are the representatives of the general body of the shareholders, and it is their duty to require the Accounts presented to them for signature to be prepared in the interests of all the parties concerned.

Appointment of Firms as Auditors.

The question having arisen as to whether the appointment of a firm of Chartered Accountants by name was in compliance with the Companies Act, 1862, First Schedule, usually known as Table A, the following case was submitted in May, 1882, by the Solicitors of the Institute of Chartered Accountants in England and Wales for the opinion of Counsel.

Case.

Case for opinion of Counsel.

The Articles of Association scheduled to the Companies Act, 1862, Table A, Clause 83, provide as follows:—

"Once at the least in every year the Accounts of the Company shall be examined and the correctness of the Balance Sheet ascertained by one or more Auditor or Auditors."

Clause 84. "The first Auditors shall be appointed by the Directors. Subsequent Auditors shall be appointed by the Company in General Meeting." Substantially for the present purpose these clauses have been adopted in the Articles of Association of the great majority of Companies established since the passing of the Act.

Last year a question was raised before the Directors of a large Company whether the appointment of a firm of Accountants consisting of four persons, not severally named in the title of the firm, was a legal appointment in conformity with the clauses above mentioned, and this year the same question has again been raised.

Counsel will please advise on the following questions, viz.:—

1. If a resolution be passed appointing 'Smith, Jones

and Co.' Auditors of a Company, would that resolution be a legal appointment of an Auditor within the meaning of the Act ?

2. Would such resolution naming the firm of ' Smith, Jones & Co.' include Robinson and Brown, they being members of the above firm ?

OPINION.

Counsel's opinion.

On the points submitted to me I am of opinion--

1. Yes. The name or style under which a firm carries on business is merely a conventional name applicable to those persons only who are members of the firm on each occasion when the name is used. If, therefore, one person, Smith, is trading under the firm of "Smith, Jones and Co.," he will be one Auditor within the meaning of Clause 83, Table A, of the Act of 1862. If two persons, Smith and Jones, are carrying on business under that style, they will be "more Auditors" within the meaning of the clause.

2. Such resolution as referred to would include Robinson and Brown, if they were members of the firm at the time the resolution was passed. It could always be shown in evidence that they were at that time partners in the firm of "Smith, Jones and Co."—*Carruthers v. Sheddon*, 6 Taunt. 15 ; *Bass v. Clive*, 4 M. & S. 13.

R. B. FINLAY, Q.C.
ARTHUR L. ASHTON.

Remuneration of Auditors under Act of 1862.

The remuneration of the first Auditors of a new Company registered under the Act of 1862 is, by Section 22 of the Companies Act, 1900, where the Auditors have been appointed before the Statutory Meeting, fixed by the Directors, that of Auditors appointed subsequently by the Shareholders in General Meeting. When a Company is registered with special Articles of Association, a clause is usually inserted to the same effect. The remuneration of

Auditors of Banking Companies appointed under the Act of 1879 has to be fixed by the General Meeting appointing them.

Under Companies Clauses Consolidation Act, 1845.

Section 91 of the Companies Clauses Consolidation Act, 1845, provides that the remuneration of the Auditors shall, unless otherwise provided by the special Act of Parliament, be settled by a General Meeting of the Company, and it has been decided that Auditors appointed under this section cannot recover any other remuneration than that fixed upon at a General Meeting of the Company.—*Page and Bishop v. Eastern and Midlands Railway Co.*, I.C. & E. 280.

Action by Auditors for additional remuneration

In this case the Plaintiffs had been appointed Auditors in terms of a resolution of shareholders of 5th October, 1878, at a remuneration of five guineas each per annum.

Nothing was said definitely as to the character of the work to be done, and for some time the Plaintiffs only audited the Capital Account of the Company. When required to audit the Revenue Account also they declined to do so without an order from the Directors directing them to audit both the Capital and Revenue Accounts, and the Directors thereupon passed a resolution to this effect.

The Plaintiffs audited the Revenue Account and claimed to be paid in respect of it an additional fee to the five guineas payable under the resolution of the 7th October, 1878. This the Directors refused to agree to.

Argument of Counsel.

Counsel for the Plaintiffs relied on *Bill v. The Darenth Valley Railway Company*, 26 L.J. Ex. 81, to show that a resolution at a General Meeting was not necessary to entitle the Plaintiffs to maintain an Action.

Counsel for the Defendants contended the case was distinguishable, as there the Directors had power to appoint a Secretary, and the fixing of his remuneration was incidental to the appointment, but that the choice of Auditors was expressly confined by Section 91 to a General Meeting of the Company.—*Taylor v. Brewer*, 1 M. & S. 290, cited.

Decision of Court in favour of Defendants.

Grove J., after stating the facts, and saying that it was doubtful whether the communication of the resolution was intended to bind the Company, continued: "But even if it was intended to bind the Company, I am of opinion that the Company would not be legally liable. To hold that they were would be to repeal the express provision of Section 91. *Bill v. The Darenth Valley Railway Company* was relied on for the Plaintiffs, but I think that case is distinguishable on the ground mentioned in the argument, namely, that there the Directors had the power of appointing the Secretary, and the remuneration was fixed as one of the terms of his appointment. In this case the Company alone had the power of appointing Auditors, they exercised that power, and at the same time determined the Auditors' remuneration. There must be judgment for the Defendants."

Remuneration usually agreed with Directors.

Although the remuneration of the Auditors has to be formally voted by the shareholders in General Meeting, yet it is usual for the fee to be previously agreed between the Directors and the Auditors, the amount being calculated according to the time occupied on the audit.

Scale of charges of Chartered Accountants.

The Institute of Chartered Accountants have not prescribed any scale of charges, but the following scale is adopted by the majority of the Members practising in London:—

	Per day of Seven hours.
Principals	£3 3s. to £10 10s.
First Class Clerks, if Chartered Accountants	£2 2s.
First Class Clerks (if not) ...	£1 11s. 6d.
Other Clerks	£1 1s.

Exclusive of disbursements.

Fees of Public Auditors.

The fees payable to Public Auditors appointed by the Treasury for auditing the accounts of Friendly Societies and specially authorised Societies granting Friendly Society benefits are—

	£	s.	d.
For Societies consisting of not more than 100 members	1	1	0

	£	s.	d.
For Societies with over 100 members, but not exceeding 500 members, in respect of each 100 members or part thereof	1	1	0
For Societies consisting of over 500 members, in respect of the first 500 members	5	5	0

with an additional 10s. 6d. in respect of each additional 100 members or part thereof. No fee, however, to exceed £52 10s. unless by special arrangement.

The scale of fees payable to Public Auditors for auditing the accounts of all other Societies registered under the Friendly Societies Act, viz., Cattle Insurance Societies, Benevolent Societies, Working Men's Clubs, specially authorised Societies (except such as grant Friendly Society benefits), is as follows :—

	£	s.	d.
For Societies whose total gross receipts do not exceed £2,000 per annum	1	1	0
For Societies whose total gross receipts exceed £2,000, but do not exceed £10,000 per annum, in respect of each £2,000 or fraction thereof ...	1	1	0

Where the gross receipts exceed £10,000 per annum, the fee is to be fixed by private arrangement.

The fees for auditing the accounts of Industrial and Provident Societies are—

	£	s.	d.
For Societies whose total sales do not exceed £2,000 per annum	1	1	0
For Societies whose total sales exceed £2,000, but do not exceed £10,000 per annum, in respect of each £2,000, or fraction thereof	1	1	0
For Societies whose total sales exceed £10,000, but do not exceed £25,000 per annum, in respect of the first £10,000	5	5	0

with an additional 10s. 6d. in respect of each additional £2,000, or fraction thereof.

When the sales exceed £25,000 per annum the fee to be fixed by special arrangement.

The word "sales" in the case of Societies for the buying and selling of land to include instalments in repayment of advances.

The Auditor may accept audits on terms lower than those of the above scale.

Auditors of Charities.

The Auditors of the Accounts of Hospitals and Charitable Institutions are usually appointed by the Governing Bodies, although the Subscribers would undoubtedly have the right to select their own representative, should they express a wish to do so, at an annual meeting, in the absence of any regulation forming part of the constitution of the Institution, which would, of course, govern the mode of election.

Auditors of Firms, &c.

The Auditors of the Accounts of a firm are occasionally appointed by the Articles of Partnership, failing that by agreement between the partners. A sleeping partner usually makes a condition that the appointment of Auditor shall be vested in him so long as his capital remains in the firm.

The fee of an Auditor is usually arranged for the audit of the Accounts of a year's transactions, as contained in the books, and an Auditor in arranging his fee should make a contract to this effect.

In *Litchfield & Sons v. Markus* (reported in *The Accountant*, Vol. XII., p. 676) the Plaintiffs agreed, in December, 1885, to audit the Defendant's books for £50 a year. They completed the audit for the year ending 31st December, 1885, in the following March, and claimed their fee. The Defendant contended that the £50 claimed was for a year's work, and was not due until after a year from the date of the contract. His Honour Judge Coventry ruled that the contract meant £50 for a year's services, and that the action had been brought too soon.

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Auditors of Executorship Accounts.

The Auditors of the Accounts of a deceased person's estate are, as a rule, appointed by the Executors or Trustees, although frequently they may be nominated for the purpose by any person interested, such as one of the beneficiaries. Their fees are the same as for ordinary audits, and when the audit is performed annually a fixed fee is usually arranged.

As a rule, these annual fees are paid out of the income of the estate, but it will be seen from the following case that, where the audit is performed not so much for the purpose of arriving at the amount to be paid annually to various persons as for the purpose of satisfying the Trustees that the capital is kept intact, the fee is chargeable against the capital, and not against the income of the estate.

A partner, on retiring from his firm, left his capital in the business under an agreement with the continuing partners that it should be a debt due from them to him, and bearing interest until repayment. The agreement contained a stipulation that the outgoing partner should have free access to the books at all times, and various provisions intended to satisfy the outgoing partner from time to time of the solvency of the business ; upon breach of any one of these provisions he was to be at liberty to call in his capital. The outgoing partner subsequently died, having by his will bequeathed his residuary estate, which included his capital in the business, to a Trustee, upon trusts for one for life and for others in remainder.

It was held by the Court of Appeal that the Trustee was at liberty to employ professional Accountants and Valuers for an audit and stocktaking once a year, if desired, or oftener if special circumstances so required, and that the expenses of these audits were costs, charges, and expenses incurred by the Trustee in the execution of the trusts of the will for the benefit of the whole estate, and were therefore payable out of capital, and not out of income.—*In re Bennett, Jones v. Bennett* [1896] 1 Ch. 778.

Where a Testator gives power to his Trustees to appoint

a factor to the estate, who may be one of themselves, but at the same time guards that provision with this further one: that the other Trustees shall at least once in every year, within one month from the termination of the year, examine and audit the whole of the last year's Accounts, require vouchers, and see that the Accounts had been properly kept, and that the money had been properly received and properly applied, the Trustees are guilty of *culpa lata* if they fail to call for annual Accounts.—*Carruthers v. Carruthers* [1896] A.C. 659.

CHAPTER III.

THE LAW RELATING TO AUDITORS AND THE BOOKS AND ACCOUNTS OF JOINT STOCK COMPANIES, BUILDING SOCIETIES, FRIENDLY SOCIETIES, INDUSTRIAL AND PROVIDENT SOCIETIES, AND SAVINGS BANKS.

The Companies Act, 1862—The Companies Act, 1867—The Companies Act, 1879—The Companies Act, 1880—The Companies Act, 1900—The Companies (Colonial Registers) Act, 1883—The Companies (Winding-up) Act, 1890—The Mortgage Debenture Act, 1865—The Mortgage Debenture (Amendment) Act, 1870—The Companies Clauses Consolidation Act, 1845—The Companies Clauses Act, 1863—The Companies Clauses Act, 1869—The Railways Construction Facilities Act, 1864—The Railway Companies Securities Act, 1866—The Railway Companies Act, 1867—The Railway Companies (Scotland) Act, 1867—The Regulation of Railways Act, 1868—The Railway and Canal Traffic Act, 1888—The Regulation of Railways Act, 1889—The Gasworks Clauses Act, 1847—The Gasworks Clauses Act, 1871—The Waterworks Clauses Act, 1847—The Metropolis Water Act, 1852—The Metropolis Water Act, 1871—The Electric Lighting (Clauses) Act, 1899—The Stannaries Act, 1869—The Stannaries Act, 1887—The Life Assurance Companies Act, 1870—The Building Societies Act, 1874—The Building Societies Act, 1894—The Friendly Societies Act, 1896—The Societies Borrowing Powers Act, 1898—The Collecting Societies and Industrial Assurance Companies Act, 1896—The Industrial and Provident Societies Act, 1893—The Industrial and Provident Societies Act, 1894—The Trustee Savings Banks Act, 1863—The Savings Banks Act, 1891.

Auditor should be acquainted with Acts of Parliament relating to his duties.

As it is very necessary that every one holding an office of a public nature should clearly understand his legal responsibilities, an Auditor should be acquainted with the Acts of Parliament under which his appointment is made.

It is, of course, therefore desirable that an Auditor of a Public Company, or of a Building or other Society, should be familiar with all the Acts regulating the Company or Society of which he is the Auditor, and special attention should be given to those sections relating to the appointment and duties of the Auditors, and to the Books and Accounts.

When a Company has been incorporated by Special Act of Parliament, or if registered under the Companies Act, 1862, has Articles of Association, the Auditor should be provided with a copy of the Private Act or the Articles of Association, and these should be read in conjunction with the Public Acts, as explained in the first chapter.

The Auditor of a Building Society, or Friendly Society, or an Industrial and Provident Society should also be provided with a Copy of the Rules of the Society, which must in the same manner be read in conjunction with the Public Act or Acts under which the Society is registered.

The present chapter contains the sections of the Public Acts having reference to the appointment and duties of Auditors of Companies and Societies, and the Books and Accounts which have to be examined by them. The Acts of Parliament from which they are taken do not follow in chronological order, but for convenient reference are so arranged that the Acts referring to the same class of Companies and Societies will be found together.

The Companies Act, 1862.

(25 & 26 Vict., c. 89.)

[7th August, 1862.]

Short Title. 1. This Act may be cited for all Purposes as "The Companies Act, 1862."

The following Acts are now incorporated with this Act, forming the Companies Acts, 1862 to 1900:—

The Companies Seals Act, 1864.
The Companies Act, 1867.
The Joint Stock Companies Arrangement Act, 1870.
The Companies Act, 1877.
The Companies Act, 1879.
The Companies Act, 1880.
The Companies (Colonial Registers) Act, 1883.
The Companies Act, 1886.
The Preferential Payments in Bankruptcy Act, 1888

The Companies (Memorandum of Association) Act, 1890.
The Companies (Winding-up) Act, 1890.
The Directors' Liability Act, 1890.
The Companies (Winding-up) Act, 1893.
The Companies Act, 1898.
The Companies Act, 1900.

Many, however, of the above Acts do not contain any reference to Auditors, or to the Books and Accounts of Companies.

Definition of Insurance Company.

3. For the Purposes of this Act a Company that carries on the business of insurance in common with any other business or businesses shall be deemed to be an Insurance Company.

A Company registered under this Act after 9th August, 1870, carrying on the business of Life Insurance has, therefore, to comply with the conditions of Section 4 of the Life Assurance Companies Act, 1870, as to keeping a separate account of its Life Funds, and to present its Accounts in the form prescribed by Section 5 of that Act, contained in its First and Second Schedule. (*See* Appendix.)

Application of Table A.

15. In the case of a Company limited by shares, if the Memorandum of Association is not accompanied by Articles of Association, or in so far as the Articles do not exclude or modify the regulations contained in the Table marked A in the First Schedule hereto, the last-mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the Company in the same manner and to the same extent as if they had been inserted in Articles of Association and the Articles had been duly registered.

Section 196 prescribes that Table A shall not, unless adopted by Special Resolution, apply to any Company registered under Part VII. of this Act, which contains regulations as to registration of Companies existing at the date of the Act.

Register of Members.

25. Every Company under this Act shall cause to be kept in one or more books a Register of its Members, and there shall be entered therein the following particulars :

(1.) The names and addresses, and the occupations, if any, of the members of the Company, with the addition, in the case of a Company having a capital divided into shares, of a statement of the

shares held by each member, distinguishing each share by its number: and of the amount paid or agreed to be considered as paid on the shares of each member:

(2.) The date at which the name of any person was entered in the Register as a member:

(3.) The date at which any person ceased to be a member.

By Section 31 of the Companies Act, 1867, on the issue of a share warrant in respect of any share or stock, the Company shall strike out of its Register of Members the name of the member then entered therein as holding such share or stock, as if he had ceased to be a member, and shall enter in the Register the fact of the issue of the warrant, a statement of the shares or stock included in the warrant, distinguishing each share by its number and the date of the issue of the warrant, and until the warrant is surrendered the particulars are deemed to be the particulars required by the 25th Section.

Section 29 prescribes that where a Company under this Act having a capital divided into shares has converted any portion of its capital into stock, and given notice of such conversion to the Registrar of Joint Stock Companies, the Register of Members is to show the amount of stock held by each member, instead of the amount of shares and the particulars relating to shares.

The Register may consist of different books, which, by reference from one to the other, supply all the information required.—*Wickersheim's Case*, 8 Ch. 831, 836.

Under certain circumstances it is probable that Allotment Sheets might constitute a Register of Members.—*Ex parte Cammell* [1894] 1 Ch. 528, [1894] 2 Ch. 392.

A Company whose objects comprise the transaction of business in a Colony may keep a branch Register of Members resident in such Colony, if authorised so to do by its regulations as originally framed, or as altered by Special Resolution. (Companies (Colonial Registers) Act, 1883.)

If shares be paid in whole or in part, not in money, but in money's worth, the Directors will properly state on the Register of Members that the shares are to the extent of such money's worth paid up, although no money has passed.—*Anglesea Colliery Co.*, 2 Eq. 379, 1 Ch. 555.

Annual List of Members.

26. Every Company under this Act, and having a capital divided into shares, shall make, once at least in every year, a list of all persons who, on the fourteenth day succeeding the day on which the Ordinary General

Meeting, or if there is more than one Ordinary Meeting in each year, the first of such Ordinary General Meetings, is held, are members of the Company: and such list shall state the names, addresses, and occupations of all the members therein mentioned, and the number of shares held by each of them, and shall contain a summary specifying the following particulars:

(1.) The amount of the capital of the Company, and the number of shares into which it is divided:

(2.) The number of shares taken from the commencement of the Company up to the date of the summary:

(3.) The amount of calls made on each share:

(4.) The total amount of calls received:

(5.) The total amount of calls unpaid:

(6.) The total amount of shares forfeited:

(7.) The names, addresses, and occupations of the persons who have ceased to be members since the last list was made, and the number of shares held by each of them.

The above list and summary shall be contained in a separate part of the Register, and shall be completed within seven days after such fourteenth day as is mentioned in this section, and a copy shall forthwith be forwarded to the Registrar of Joint Stock Companies.

Every year means a year from 1st January to 31st December.—*Gibson v. Barton*, 10 Q.B. 329; *Edmonds v. Foster*, 33 L.T. 690.

Section 32 of the Companies Act, 1867, prescribes that after the issue of a share warrant the Annual Summary shall contain the following particulars: the total amount of shares or stock for which share warrants are outstanding at the date of the Summary, and the total amount of share warrants which have been issued and surrendered respectively since the last Summary was made, and the number of shares or amount of stock comprised in each warrant.

Section 29 prescribes that where a Company under this Act, having a capital divided into shares, has converted any portion of its capital into stock (*see* note to Section 25), the List of Members shall show the amount of stock held by each member in the list, instead of the amount of shares and the particulars relating to shares.

Section 19 of the Companies Act, 1900, prescribes that the Annual Summary shall be so framed as to distinguish between the shares issued for cash and the shares issued otherwise than for cash or only partly for cash, and shall, in addition to the particulars required by that section, specify others. (*See* Companies Act, 1900, Section 19.)

Entry of Trusts on Register.

30. No notice of any trust, expressed, implied, or constructive, shall be entered on the Register, or be receivable by the Registrar, in the case of Companies under this Act and registered in England or Ireland.

This section does not apply to Scotland, it being the Scotch practice to notice trusts in the transfer and registration of stocks.

Register of Mortgages.

43. Every Limited Company under this Act shall keep a Register of all mortgages and charges specifically affecting property of the Company, and shall enter in such Register in respect of each mortgage or charge a short description of the property mortgaged or charged, the amount of charge created, and the names of the mortgagees or persons entitled to such charge: If any property of the Company is mortgaged or charged without such entry as aforesaid being made, every Director, Manager, or other officer of the Company who knowingly and wilfully authorises or permits the omission of such entry shall incur a penalty not exceeding fifty pounds: The Register of Mortgages required by this section shall be open to inspection by any creditor or Member of the Company at all reasonable times; and if such inspection is refused any officer of the Company refusing the same, and every Director and Manager of the Company authorising or knowingly and wilfully permitting such refusal, shall incur a penalty.

The Act requires registration, not of the instrument creating the charge, but of the property charged. It extends, therefore, to the case where there is no instrument, such as where the security is created by deposit.—*Smith's Case*, 11 Ch. Div. 579, 585.

When debentures are issued to bearer it is the practice to register the name of the person to whom each debenture is first issued. When a debenture trust deed is executed it is the practice to register the trustees or the persons entitled to the charge.

The right of a creditor or member of a Company to inspect the Register of Mortgages includes a right to take copies of the Register. —*Nelson v. Anglo-American Land Mortgage Agency Co.* [1897] 1 Ch. 130.

Certain Companies to publish Statement entered in Schedule.

44. Every Limited Banking Company and every Insurance Company, and Deposit, Provident, or Benefit Society under this Act shall, before it commences business, and also on the first Monday in February and the first Monday in August in every year during which it carries on business, make a statement in the form marked D (*see* Appendix) in the First Schedule hereto, or as near thereto as circumstances will admit, and a copy of such statement shall be put up in a conspicuous place in the registered office of the Company and in every branch office or place where the business of the Company is carried on.

List of Directors to be sent to Registrar.

45. Every Company under this Act shall keep at its registered office a Register containing the names and addresses and the occupations of its Directors or Managers, and shall send to the Registrar of Joint Stock Companies a copy of such Register, and shall from time to time notify to the Registrar any change that takes place in such Directors or Managers.

General Meeting of Company.

49. A General Meeting of every Company under this Act shall be held once at least in every year.

The year is the natural one, from 1st January to 31st December. —*Edmonds v. Foster*, 33 L.T. 690.

It is at this meeting that the Accounts are laid before the Shareholders, and the Auditors for the ensuing year are appointed.

Evidence of Proceedings at Meetings.

67. Every Company under this Act shall cause minutes of all resolutions and proceedings of General Meetings of the Company, and of the Directors or Managers of the Company in cases where there are Directors or Managers, to be duly entered in books to be from time to time provided for the purpose.

The books containing these minutes are known as "Minute Books." In large Companies it is the practice to keep separate "Minute Books" for meetings of the Directors, for meetings of Committees of Directors, and for the meetings of Shareholders respectively. These "Minute Books" are, it is conceived, open to the inspection of the Auditor should he, in the performance of his duties, consider such inspection desirable. A clause, however, giving a right of inspection of "the

books wherein the proceedings of the Company are recorded" does not give a Shareholder the right to inspect the books of minutes of the proceedings of the Directors.—*Reg. v. Mariquita Co.*, 1 E. & E. 289.

Power of Court to summon persons before it suspected of having property of Company.

115. The Court may, after it has made an order for winding up the Company, summon before it any Officer of the Company, or person known or suspected to have in his possession any of the estate or effects of the Company, or supposed to be indebted to the Company, or any person whom the Court may deem capable of giving information concerning the trade, dealings, estate, or effects of the Company; and the Court may require any such Officer or person to produce any books, papers, deeds, writings, or other documents in his custody or power relating to the Company; and if any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, having no lawful impediment (made known to the Court at the time of its sitting, and allowed by it), the Court may cause such person to be apprehended, and brought before the Court for examination; nevertheless, in cases where any person claims any lien on papers, deeds, or writings, or documents produced by him, such production shall be without prejudice to such lien, and the Court shall have jurisdiction in the winding-up to determine all questions relating to such lien.

This Section is now supplemented by Sec. 8 of the Companies (Winding-up) Act, 1890, which *see*.

As to an Auditor being an Officer of the Company, *see* remarks in Chapter I.

The Section is as applicable to matters occurring in the winding-up as to matters before the winding-up.—*Ex parte Carver*, 47 L.J. Ch. 702.

The Witness is entitled to be attended at his examination by his Counsel and Solicitor.—*In re Breech-Loading Armoury Co., In re Merchants' Co.*, 4 Eq. 453.

The Witness is entitled to be re-examined for the purpose of explaining the evidence given in his examination.—*Cambrian Mining Co.*, 20 Ch. D. 376.

First Schedule.

Table A.—Regulations for Management of a Company Limited by Shares.

Calls on Shares.

7. The Directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys due upon the shares held by him beyond the sums actually called for; and upon the moneys so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the member paying such sum in advance and the Directors agree upon.

The word "interest" does not mean "dividend," Interest upon moneys paid in advance is a legal debt, payable out of any assets of the Company, including its capital.—*Lock v. Queensland Investment Co.* [1896] A.C. 461.

Conversion of Shares into Stock.

23. The Directors may, with the sanction of the Company previously given in General Meeting, convert any paid-up shares into stock.

25. The several holders of stock shall be entitled to participate in the dividends and profits of the Company according to the amount of their respective interests in such stock.

Issue of new Shares.

26. The Directors may, with the sanction of a special resolution of the Company previously given in General Meeting, increase its capital by the issue of new shares, such aggregate increase to be of such amount, and to be divided into shares of such respective amounts, as the Company in General Meeting directs, or, if no direction is given, as the Directors think expedient.

To be considered as part of original Capital.

28. Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions with reference to the payment of calls, and the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

General Meetings.

30. General Meetings shall be held at such time and place as may be prescribed by the Company in General Meeting ; and if no other time and place is prescribed, a General Meeting shall be held on the first Monday in February in every year, at such place as may be determined by the Directors.

See Note to Section 49 of the Act.

Dividends.

72. The Directors may, with the sanction of the Company in General Meeting, declare a dividend to be paid to the members in proportion to their shares.

A Waterworks Company, constituted under this Act, whose Articles of Association contained a clause similar to the above, having applied the profits which had been earned to the construction of productive works instead of paying a dividend, passed a resolution proposing to give to the Shareholders Debenture Bonds bearing interest, and redeemable at par by an annual drawing extending over thirty years. It was held that this was, upon the true construction of the Articles, not in accordance with them, and the Directors were restrained from acting on the resolution. —*Wood v. Odessa Waterworks Co.*, 42 Ch. D. 636.

The result of this decision is that, under Articles of Association in this form, dividends are payable in proportion to the amount of the subscribed capital, not of the paid-up capital.

The Articles of a Company provided for the submission of Accounts up to a date within three months and reports thereon, the sanction of a dividend, and the transaction of the ordinary business at the Annual General Meeting. It was held by North, J., that a final dividend could not be sanctioned except at an Annual General Meeting, at which Accounts up to the prescribed date and reports thereon were submitted. —*Nicholson v. Rhodesia Trading Co.* [1897] 1 Ch. 434.

73. No dividend shall be payable except out of the profits arising from the business of the Company.

As to profits available for dividend *see* Chapter XIII.

74. The Directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a Reserved Fund to meet contingencies, or for equalising dividends, or for repairing or maintaining the works connected with the business of the Company, or any part thereof; and

the Directors may invest the sum so set apart as a Reserved Fund upon such securities as they may select.

This Article seems to indicate that the amount set aside is to be invested and not employed in the business.

75. The Directors may deduct from the dividends payable to any member all such sums of money as may be due from him to the Company on account of calls or otherwise.

76. Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned; and all dividends unclaimed for three years, after having been declared, may be forfeited by the Directors for the benefit of the Company.

Dividends thus forfeited may be carried to the Reserve Fund, or even to the credit of the Revenue Account.

77. No dividend shall bear interest as against the Company.

78. The Directors shall cause true Accounts to be kept— Accounts.

Of the stock-in-trade of the Company;

Of the sums of money received and expended by the Company, and the matter in respect of which such receipt and expenditure takes place; and

Of the credits and liabilities of the Company;

The Books of Account shall be kept at the registered office of the Company, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Company in General Meeting, shall be open to the inspection of the Members during the hours of business.

Directors keeping fraudulent Accounts are by 24 & 25 Vict., c. 96, ss. 81—84 (*see post*), guilty of a misdemeanour.

79. Once at the least in every year the Directors shall lay before the Company in General Meeting a Statement of the Income and Expenditure for the past year, made up to a date not more than three months before such Meeting. Statement of Income and Expenditure.

This Statement is the one usually styled a Profit and Loss Account

or Revenue Account, and not a Cash Account. For difference between these accounts *see* Chapter VII.

80. The Statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expense of the establishment, salaries, and other like matters: Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of Profit and Loss may be laid before the Meeting; and in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

See Chapter IX. for special remarks on the various items of receipt and expenditure which ordinarily occur in this Statement.

Balance Sheet.

81. A Balance Sheet shall be made out in every year, and laid before the Company in General Meeting, and such Balance Sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to this Table, or as near thereto as circumstances admit.

See Chapters X. and XI. for special remarks on the various items which ordinarily occur in this Statement.

82. A printed copy of such Balance Sheet shall, seven days previously to such Meeting, be served on every member in the manner in which notices are hereinafter directed to be served.

The Certificate of the Auditor is by the Companies Act, 1900, Sec. 23, required to be affixed to the Balance Sheet, and is printed on the copies sent to each member in accordance with this Article.

Where the Articles of Association of a Company provided for the presentation at every half-yearly General Meeting of a Balance Sheet and General Summary of Accounts, which was to be binding and conclusive on the Shareholders, unless objected to before the next General

Meeting, and no such Balance Sheet or General Summary, but only a half-yearly Report was prepared, in which the affairs of the Company were mis-stated, it was held that such Reports were not binding on the Shareholders.—*Portsmouth Banking Co.'s, Helby's, and other Cases*, 2 Eq. 167.

A Director is not necessarily personally responsible for Balance Sheets and Reports stated to be issued "by order of the Directors." —*Denham & Co.*, 25 Ch. D. 752.

83. Once at the least in every year the Accounts of the Company shall be examined, and the correctness of the Balance Sheet ascertained, by one or more Auditor or Auditors. Audit.

See remarks and opinion of Counsel in Chapter II. as to members of the same firm being "more Auditors" within meaning of this Article.

84. The First Auditors shall be appointed by the Directors: subsequent Auditors shall be appointed by the Company in General Meeting. Appointment of Auditors.

It is the ordinary practice for the names of the first Auditors to be printed on the Prospectus. It is, perhaps, doubtful as to whether this is an appointment within the meaning of this Article, but it is certainly a pledge given by the Directors to those who apply for shares on the faith of the statements in the Prospectus that the Auditors named on the Prospectus will be validly appointed, and thus audit the Accounts to be placed before the members at the first Annual General Meeting.

85. If one Auditor only is appointed, all the provisions herein contained relating to Auditors shall apply to him.

86. The Auditors may be members of the Company; but no person is eligible as an Auditor who is interested otherwise than as a member in any transaction of the Company; and no Director or other officer of the Company is eligible during his continuance in office.

87. The election of Auditors shall be made by the Company at their Ordinary Meeting in each year.

This is now compulsory by Section 21 of the Companies Act, 1900.

88. The remuneration of the first Auditors shall be fixed by the Directors; that of subsequent Auditors shall be fixed by the Company in General Meeting. Remuneration.

89. Any Auditor shall be re-eligible on his quitting office.

90. If any casual vacancy occurs in the office of any Auditor appointed by the Company, the Directors shall forthwith call an Extraordinary General Meeting for the purpose of supplying the same.

This Article is now superseded by Section 21 (5), of the Companies Act, 1900, which authorises the Directors to fill any casual vacancy, and also authorises the surviving or continuing Auditor or Auditors (if any) to act while any vacancy continues.

91. If no election of Auditors is made in manner aforesaid the Board of Trade may, on the application of not less than five members of the Company, appoint an Auditor for the current year, and fix the remuneration to be paid to him by the Company for his services.

By Section 21 (2), of the Companies Act, 1900, the Board of Trade may appoint an Auditor on the application of any member of the Company.

Duties of Auditors.

92. Every Auditor shall be supplied with a copy of the Balance Sheet, and it shall be his duty to examine the same with the Accounts and vouchers relating thereto.

It is perfectly clear from this Article that the preparation of the Balance Sheet is no part of an Auditor's duties. It is to be supplied to him, presumably by the Directors, for his Certificate to be affixed thereto, in accordance with Article 94, and the Companies Act, 1900, Section 23.

93. Every Auditor shall have a list delivered to him of all books kept by the Company, and shall at all reasonable times have access to the Books and Accounts of the Company. He may, at the expense of the Company, employ Accountants or other persons to assist him in investigating such Accounts, and he may in relation to such Accounts examine the Directors or any other officer of the Company.

The power given by this Article is conferred on each Auditor.—*Steele v. Sutton Gas Co.*, 12 Q.B.D. 68; *see* Chapter XIV.

The "books" are presumed to include not merely the Books of Account, but also the Minute Books and Letter Books. (*See* note to Companies Act, 1900, Section 23.)

94. The Auditors shall make a Report to the members upon the Balance Sheet and Accounts, and in every such Report they shall state whether in their opinion the Balance Sheet is a full and fair Balance Sheet containing the particulars required by these regulations, and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs, and in case they have called for explanations or information from the Directors, whether such explanations or information have been given by the Directors, and whether they have been satisfactory ; and such Report shall be read, together with the Report of the Directors, at the Ordinary Meeting. Report of Auditors.

For remarks on the Report and Certificate of Auditors *see* Chapter XV.

The Report is made compulsory upon the Auditors of all Companies registered under the Act of 1862 by the Act of 1900, and the statement required by the above Article must be supplemented by the words required by Section 23 of the latter Act.

Second Schedule.

Form B.—Memorandum and Articles of Association of a Company Limited by Guarantee, and not having a Capital Divided into Shares.

29. The Accounts of the Company shall be audited by a Committee of five members, to be called the Audit Committee. Audit Committee.

30. The first Audit Committee shall be nominated by the Directors out of the body of members.

31. Subsequent Audit Committees shall be nominated by the members at the Ordinary General Meeting in each year.

32. The Audit Committee shall be supplied with a copy of the Balance Sheet, and it shall be their duty to examine the same with the Accounts and Vouchers relating thereto.

33. The Audit Committee shall have a list delivered to them of all books kept by the Company, and they

shall at all reasonable times have access to the Books and Accounts of the Company: They may, at the expense of the Company, employ Accountants or other persons to assist them in investigating such Accounts, and they may in relation to such Accounts examine the Directors or any other Officer of the Company.

Report of Audit Committee.

34. The Audit Committee shall make a Report to the members upon the Balance Sheet and Accounts, and in every such Report they shall state whether in their opinion the Balance Sheet is a full and fair Balance Sheet, containing the particulars required by these regulations of the Company, and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs, and in case they have called for explanation or information from the Directors, whether such explanations or information have been given by the Directors, and whether they have been satisfactory, and such Report shall be read together with the Report of the Directors at the Ordinary Meeting.

The preceding six Sections must be read in conjunction with the Companies Act, 1900, Sections 21-23.

The Companies Act, 1867.

(30 & 31 Vict., c. 131.)

[20th August, 1867.]

Short Title.

1. This Act may be cited for all purposes as "The Companies Act, 1867."

Particulars to be contained in Annual Summary.

32. After the issue by the Company of a share warrant, the Annual Summary required by the 26th Section of the principal Act shall contain the following particulars,—The total amount of shares or stock for which share warrants are outstanding at the date of the Summary, and the total amount of share warrants which have been issued and surrendered respectively since the last Summary was made, and the number of shares or amount of stock comprised in each warrant.

The Companies Act, 1879.
(42 & 43 Vict., c. 76.)

[15th August, 1879.]

1. This Act may be cited as "The Companies Act, 1879." Short Title.

2. This Act shall not apply to the Bank of England. Act not to apply to Bank of England.

3. This Act shall, so far as is consistent with the tenor thereof, be construed as one with the Companies Acts, 1862, 1867, and 1877, and those Acts together with this Act may be referred to as "The Companies Acts, 1862 to 1879." Act to be construed with 25 & 26 Vict., c. 89, 30 & 31 Vict., c. 131, and 40 & 41 Vict., c. 26.

This Act is now construed with the Acts referred to in the notes to the Companies Act, 1862, Section 1, and is cited with these Acts as the Companies Acts 1862 to 1900.

7.—(1.) Once at the least in every year the Accounts of every Banking Company registered after the passing of this Act as a Limited Company shall be examined by an Auditor or Auditors, who shall be elected annually by the Company in General Meeting. Audit of Accounts of Banking Companies.

(2.) A Director or Officer of the Company shall not be capable of being elected Auditor of such Company.

(3.) An Auditor on quitting office shall be re-eligible.

(4.) If any casual vacancy occurs in the office of any Auditor, the surviving Auditor or Auditors (if any) may act, but if there is no surviving Auditor, the Directors shall forthwith call an Extraordinary General Meeting for the purpose of supplying the vacancy or vacancies in the Auditorship.

(5.) Every Auditor shall have a list delivered to him of all books kept by the Company, and shall at all reasonable times have access to the Books and Accounts of the Company; and any Auditor may, in relation to such Books and Accounts, examine the Directors or any other Officer of the Company: Provided that if a Banking Company has branch banks beyond the limits of Europe, it shall be sufficient if the Auditor is allowed access to such copies of and extracts from the Books and Accounts

of any such branch as may have been transmitted to the head office of the Banking Company in the United Kingdom.

Report of Auditors.

(6.) The Auditor or Auditors shall make a Report to the Members on the Accounts examined by him or them, and on every Balance Sheet laid before the Company in General Meeting during his or their tenure of office; and in every such Report shall state whether, in his or their opinion, the Balance Sheet referred to in the Report is a full and fair Balance Sheet, properly drawn up, so as to exhibit a true and correct view of the state of the Company's affairs, as shown by the Books of the Company; and such Report shall be read before the Company in General Meeting.

(7.) The remuneration of the Auditor or Auditors shall be fixed by the General Meeting appointing such Auditor or Auditors, and shall be paid by the Company.

"It is impossible to read Section 7 without being struck with the importance of the enactment that the Auditors are to be appointed by the shareholders, and are to report to them directly, and not to or through the Directors. The object of this enactment is obvious. It evidently is to secure to the shareholders independent and reliable information respecting the true financial position of the Company at the time of the audit."—*In re London and General Bank* (No. 2) [1895] 2 Ch. 682.

Signature of Balance Sheet

(8.) Every Balance Sheet submitted to the Annual or other Meeting of the Members of every Banking Company registered after the passing of this Act as a Limited Company shall be signed by the Auditor or Auditors, and by the Secretary or Manager (if any), and by the Directors of the Company, or three of such Directors at the least.

The provisions contained in Sections 21, 22, and 23 of the Companies Act, 1900, are supplemental to and not in substitution for provisions as to audit in the preceding Section (where applicable), and the Act of 1900 does not relieve an Auditor from the necessity of complying with such provisions, even though they impose obligations beyond those imposed by the Act of 1900. In so far, however, as the Act of 1900 is inconsistent with the provisions of the Act of 1879, the later Act prevails.

The Companies Act, 1880.

(43 Vict., c. 19.)

[24th March, 1880.]

Short Title.

1. This Act may be cited for all purposes as "The Companies Act, 1880."

Construction of Acts 25 & 26 Vict., c. 89, 30 & 31 Vict., c. 131, 40 & 41 Vict., c. 26, 42 & 43 Vict., c. 76.

2. This Act shall, so far as is consistent with the tenor thereof, be construed as one with the Companies Acts, 1862, 1867, 1877, and 1879, and the said Acts and this Act may be referred to as "The Companies Acts, 1862 to 1880."

Accumulated profits may be returned to Shareholders in reduction of paid-up Capital.

3. When any Company has accumulated a sum of undivided profits, which with the consent of the shareholders may be distributed among the shareholders in the form of a dividend or bonus, it shall be lawful for the Company, by Special Resolution, to return the same, or any part thereof, to the shareholders in reduction of the paid-up capital of the Company, the unpaid capital being thereby increased by a similar amount. The powers vested in the Directors of making calls upon the shareholders in respect of moneys unpaid upon their shares shall extend to the amount of the unpaid capital as augmented by such reduction.

No Resolution to take effect till particulars have been registered.

4. No such Special Resolution as aforesaid shall take effect until a Memorandum, showing the particulars required by law in the case of a reduction of capital by order of the Court, shall have been produced to and registered by the Registrar of Joint Stock Companies.

Power to any Shareholder within one month after passing of Resolution to require Company to retain moneys paid up on Shares held by such person.

5. Upon any reduction of paid-up capital made in pursuance of this Act, it shall be lawful for any shareholder, or for any one or more of several joint shareholders, within one month after the passing of the Special Resolution for such reduction, to require the Company to retain, and the Company shall retain accordingly, the whole of the moneys actually

paid up on the shares held by such person, either alone or jointly with any other person or persons, and which, in consequence of such reduction, would otherwise be returned to him or them, and thereupon the shares in respect of which the said moneys shall be so retained shall, in regard to the payment of dividends thereon, be deemed to be paid up to the same extent only as the shares on which payment as aforesaid has been accepted by the shareholders in reduction of their paid-up capital, and the Company shall invest and keep invested the moneys so retained in such securities authorised for investment by Trustees as the Company shall determine, and upon the money so invested, or upon so much thereof as from time to time exceeds the amount of calls subsequently made upon the shares in respect of which such money shall have been retained, the Company shall pay such interest as shall be received by them from time to time on such securities, and the amount so retained and invested shall be held to represent the future calls which may be made to replace the capital so reduced on those shares, whether the amount obtained on sale of the whole or such proportion thereof as represents the amount of any call when made produces more or less than the amount of such call.

Company to specify amounts which Shareholders have required them to retain under s. 5; also to specify amounts of profits returned to Shareholders, 25 & 26 Vict., c. 89.

6. From and after such reduction of capital the Company shall specify in the annual Lists of Members, to be made by them in pursuance of the Twenty-sixth Section of the Companies Act, 1862, the amounts which any of the shareholders of the Company shall have required the Company to retain, and the Company shall have retained accordingly, in pursuance of the Fifth Section of this Act, and the Company shall also specify in the Statements of Account, laid before any General Meeting of the Company, the amount of the undivided profits of the Company which shall have been returned to the shareholders in reduction of the paid-up capital of the Company under this Act.

The Companies Act, 1900.

(63 & 64 Vict., c. 48.)

[8th August, 1900.]

Qualification of Director.

3.—(1.) Without prejudice to the restrictions imposed by the last foregoing section, it shall be the duty of every Director who is by the Regulations of the Company required to hold a specified share qualification, and who is not already qualified, to obtain his qualification within two months after his appointment, or such shorter time as may be fixed by the Regulations of the Company.

(2.) The office of Director of a Company shall be vacated, if the Director does not within two months from the date of his appointment, or within such shorter time as may be fixed by the Regulations of the Company, obtain his qualification, or if after the expiration of such period or shorter time he ceases at any time to hold his qualification: and a person vacating office under this Section shall be incapable of being re-appointed Director of the Company until he has obtained his qualification.

(3.) If after the expiration of the said period or shorter time any unqualified person acts as Director of a Company, he shall be liable to pay to the Company the sum of five pounds for every day during which he so acts.

The restrictions in Section 2 referred to relate to the mode of Appointment of Directors.

Although not compulsory upon him it would be very proper for an Auditor to mention in his Report the fact that a person was acting as a Director who had not complied with the provisions of this Section as to qualification.

A qualification may, unless the Articles of Association otherwise provide, be properly obtained, either by taking the shares from the Company or acquiring them by transfer.—*Browne's Case*, 9 Ch. 102.

In the absence of special provision in the Articles, a Director who is the registered holder of the required qualification shares is qualified, even though he holds them merely as trustee for some other person.—*Pulbrook v. Richmond Consolidated Co.*, 9 C.D. 610; *Bainbridge v. Smith*, 41 C.D. 462.

A Director is duly qualified if he is one of several joint holders of the required qualification. — *In re Glory Paper Mills, Dunster's Case* [1894] 3 Ch. 473.

Restriction as to Allotment.

4.—(1.) No allotment shall be made of any Share Capital of a Company offered to the public for subscription, unless the following conditions have been complied with, namely,—

(*a*) the amount (if any) fixed by the Memorandum or Articles of Association and named in the prospectus as the minimum subscription upon which the Directors may proceed to allotment ; or

(*b*) if no amount is so fixed and named, then the whole amount of the Share Capital so offered for subscription,

has been subscribed, and the sum payable on application for the amount so fixed and named, or for the whole amount offered for subscription has been paid to and received by the Company.

(2.) The amount so fixed and named and the whole amount aforesaid shall be reckoned exclusively of any amount payable otherwise than in cash, and is in this Act referred to as the minimum subscription.

(3.) The amount payable on application on each share shall not be less than five per cent. of the nominal amount of the share.

(4.) If the conditions aforesaid have not been complied with on the expiration of forty days after the first issue of the prospectus, all money received from applicants for shares shall be forthwith repaid to the applicants without interest, and, if any such money is not so repaid within forty-eight days after the issue of the prospectus, the Directors of the Company shall be jointly and severally liable to repay that money with interest at the rate of five per centum per annum from the expiration of the forty-eight days : Provided that a Director shall not be liable if he proves that the loss of the money was not due to any misconduct or negligence on his part.

(5.) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this Section shall be void.

(6.) This Section, except Subsection (3) thereof, shall

not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription.

This Section does not apply unless Share Capital is offered for public subscription, and therefore it does not apply to a private Company which makes no offer of Shares for public subscription, or to a Company which only offers Debentures or Debenture Stock for public subscription, or to a case in which the offer is not to the public, but to a select class of persons, such as to members of a Company re-constructing.

Return as to Allotments.

7.—(1.) Whenever a Company limited by shares makes any allotment of its shares, the Company shall within one month thereafter file with the Registrar—

(*a*) a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, addresses, and descriptions of the allottees, and the amount (if any) paid or due and payable on each share ; and

(*b*) in the case of shares allotted in whole or in part for a consideration other than cash, a contract in writing constituting the title of the allottee to such allotment, together with any contract of sale, or for services or other consideration in respect of which such allotment was made, such contracts being duly stamped, and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

(2.) If default is made in complying with the requirements of this Section, every Director, Manager, Secretary, or other Officer of the Company, who is knowingly a party to the default, shall be liable to a fine not exceeding fifty pounds for every day during which the default continues.

It does not fall within an Auditor's duty to satisfy himself that documents which ought to be filed with the Registrar of Joint Stock Companies have been so filed; but, should he knowingly be a party to the default referred to, he runs the risk of being judicially held to be an "Officer" under this Section.

"Knowingly" means "knowing the facts," and a man commits

the offence if he knows of the allotment, or knows of the contract, and does not procure compliance with this Section.—*Twycross v. Grant*, 2 C.P. Div. 469.

Commissions, Discounts, &c.

8.—(1.) Upon any offer of shares to the public for subscription, it shall be lawful for a Company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the Company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the Company, if the payment of the commission and the amount or rate per cent. of the commission paid or agreed to be paid are respectively authorised by the Articles of Association and disclosed in the prospectus, and the commission paid or agreed to be paid does not exceed the amount or rate so authorised.

(2.) Save as aforesaid, no Company shall apply any of its shares or capital money, either directly or indirectly, in payment of any commission, discount, or allowance, to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the Company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the Company, whether the shares or money be so applied by being added to the purchase money of any property acquired by the Company or to the contract price of any work to be executed for the Company, or the money be paid out of the nominal purchase money or contract price, or otherwise.

(3.) But nothing in this section shall affect the power of any Company to pay such brokerage as it has heretofore been lawful for a Company to pay.

If shares are offered to the public for subscription Subsection (1) applies, even though none of the shares so offered be allotted to the public.

The Auditor must note that payment of the commission must be authorised by the Articles of Association.

A Company is, of course, at liberty to apply any of its profits, including premiums on issue of shares, in paying commissions.

A brokerage at the rate of 2½ per cent. on the shares placed was

allowed in *Metropolitan Coal Consumers' Association, Limited, v. Scrimgeour* [1895] 2 Q.B. 604.

Specific requirements as to particulars of Prospectus.

10.—(1.) Every prospectus issued by or on behalf of a Company, or by or on behalf of any person who is or has been engaged or interested in the formation of the Company, must state—

(*l*) The names and addresses of the Auditors (if any) of the Company.

First Statutory Meeting of Company.

12.—(1.) Every Company limited by shares and registered after the commencement of this Act shall, within a period of not less than one month nor more than three months from the date at which the Company is entitled to commence business, hold a General Meeting of the members of the Company, which shall be called the Statutory Meeting.

(2.) The Directors shall, at least seven days before the day on which the meeting is held, forward to every member of the Company a Report, certified by not less than two Directors of the Company, or, where there are less than two Directors, by the sole Director and Manager, stating :—

(*a*) The total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted ;

(*b*) The total amount of cash received by the Company in respect of such shares, distinguished as aforesaid ;

(*c*) An abstract of the receipts and payments of the Company on Capital Account to the date of the Report, and an account or estimate of the preliminary expenses of the Company ;

(*d*) The names, addresses, and descriptions of the Directors, Auditors (if any), Manager (if any), and Secretary of the Company ; and

(*e*) The particulars of any contract, the modification of which is to be submitted to the meeting for its

approval, together with the particulars of the modification or proposed modification.

(3.) The Report shall, so far as it relates to the shares allotted by the Company, and to the cash received in respect of such shares, and to the receipts and payments of the Company on Capital Account, be certified as correct by the Auditors, if any, of the Company.

A Company is entitled to commence business as soon as it has received from the Registrar of Joint Stock Companies a certificate to this effect, but, in the case of a Company where there is no invitation to the public to subscribe for its shares, it is entitled to commence business immediately on its incorporation.

As it is the practice of every respectably formed Company issuing a prospectus to place thereon a Chartered Accountant as Auditor, such Auditor should request the Secretary to advise him immediately of the issue of the Registrar's Certificate, and to give him due notice of the date of the first Statutory Meeting, so that he may have time to examine and certify the Receipts and Payments on Capital Account, as required by this Section.

Registration of Mortgages and Charges.

14.—(1.) Every mortgage or charge created by a Company after the commencement of this Act, and being either—

(*a*) A mortgage or charge for the purpose of securing any issue of debentures ; or

(*b*) A mortgage or charge on uncalled Capital of the Company ; or

(*c*) A mortgage or charge created or evidenced by an instrument which, if executed by an individual, would require registration as a bill of sale ; or

(*d*) A floating charge on the undertaking or property of the Company,

shall, so far as any security on the Company's property or undertaking is thereby conferred, be void against the liquidator and any creditor of the Company, unless filed with the Registrar for registration in manner required by this Act within twenty-one days after the date of its creation, but without prejudice to any contract or obligation for repayment of the money thereby secured.

This section only applies to certain kinds of mortgages and charges, and not to all. Thus, a specific mortgage or charge of land, or of a

concession, or patent, or copyright, is not within the Section unless it is to secure any issue of Debentures or Debenture Stock.

(2.) Where the mortgage or charge comprises property outside the United Kingdom, it shall, so far as that property is concerned, be sufficient compliance with the requirements of this Section, if a deed purporting to specifically charge such property be registered notwithstanding that further proceedings may be necessary to make such mortgage or charge valid or effectual, according to the law of the country in which such property is situate.

(6.) The Registrar shall give a certificate, under his hand of the registration of any mortgage or charge registered in pursuance of this Section, stating the amount thereby secured (which certificate shall be conclusive evidence that the requirements of this Section as to registration have been complied with), and the Company shall cause a copy of the certificate so given to be endorsed on every debenture or certificate of debenture stock which is issued by the Company, and the payment of which is secured by the mortgage or charge so registered.

(7.) It shall be the duty of the Company to register every mortgage or charge created by the Company and requiring registration under this Section, and for that purpose to supply the Registrar with the particulars required for registration ; but any such mortgage or charge may be registered on the application of any person interested therein.

(8.) The Register kept, in pursuance of this Section, of the mortgages and charges of each Company shall be open to inspection by any person on payment of the prescribed fee, not exceeding one shilling for each inspection.

(9.) Every Company shall cause a copy of every instrument creating any mortgage or charge requiring registration under this Section to be kept at the Registered Office of the Company, and to be open to inspection by the members and creditors of the Company on payment of such fee, not exceeding one shilling for each inspection, as may be fixed by the regulations of the Company. Provided that in the

case of a series of uniform debentures a copy of one such debenture shall be sufficient.

Penalties

18. If any Company makes default in complying with the requirements of this Act as to the registration of any mortgage or charge created by the Company, the Company, and every Director, Manager and other Officer of the Company, who knowingly and wilfully authorised or permitted such default, shall, without prejudice to any other liability, be liable on summary conviction to a fine not exceeding one hundred pounds; and if any person knowingly and wilfully authorises or permits the delivery of any debenture or certificate of debenture stock required by this Act to be registered, without a copy of the certificate of the Registrar being endorsed upon it, he shall, without prejudice to any other liability, be liable on summary conviction to a fine not exceeding one hundred pounds.

"Wilfully" means that the act is done deliberately and intentionally, not by accident or inadvertence, but so that the mind of the person who does the act goes with it.—*Regina v. Senior* [1899] 1 Q.B. 283, 290.

Annual Summary, 25 & 26 Vict. c. 89.

19.—(1.) The Summary mentioned in Section Twenty-six of the Companies Act, 1862, shall be so framed as to distinguish between the shares issued for cash and the shares issued otherwise than for cash or only partly for cash, and shall, in addition to the particulars required by that Section to be specified, also specify—

(*a*) the total amount of debt due from the Company in respect of all mortgages and charges which require registration under this Act, or which would require such registration if created after the commencement of this Act; and

(*b*) the names and addresses of the persons who are the Directors of the Company at the date of the summary.

(2.) The list and summary mentioned in the said Section Twenty-six must be signed by the Manager or by the Secretary of the Company.

Appointment of Auditors.

21.—(1.) Every Company shall at each Annual General Meeting appoint an Auditor or Auditors, to hold office until the next Annual General Meeting.

(2.) If an appointment of Auditors is not made at an Annual General Meeting, the Board of Trade may, on the application of any Member of the Company, appoint an Auditor of the Company for the current year, and fix the remuneration to be paid to him by the Company for his services.

(3.) A Director or Officer of the Company shall not be capable of being appointed Auditor of the Company.

(4.) The first Auditors of the Company may be appointed by the Directors before the Statutory Meeting, and if so appointed shall hold office until the first Annual General Meeting, unless previously removed by a resolution of the shareholders in General Meeting, in which case the shareholders at such meeting may appoint Auditors.

(5.) The Directors of a Company may fill any casual vacancy in the office of Auditor, but while any such vacancy continues the surviving or continuing Auditor or Auditors, if any, may act.

This and two following Sections are supplemental to and not in substitution for provisions as to Audit contained in the Companies Act, 1862, Table A, or in Articles of Association registered under that Act, or in the Companies Act, 1879 (where applicable), and the Act of 1900 does not relieve an Auditor from the necessity of complying with such provisions, even though they impose obligations beyond those imposed by the Act of 1900. In so far, however, as the Act of 1900 is inconsistent with the earlier provisions, this Act must, of course, prevail.

Remuneration of Auditors.

22. The remuneration of the Auditors of a Company shall be fixed by the Company in General Meeting, except that the remuneration of any Auditors appointed before the Statutory Meeting, or to fill any casual vacancy, may be fixed by the Directors.

For special remarks on the remuneration of Auditors, *see* Chapter II.

Rights and Duties of Auditors.

23. Every Auditor of a Company shall have a right of access at all times to the books and accounts and vouchers of the Company, and shall be entitled to require

from the Directors and Officers of the Company such information and explanation as may be necessary for the performance of the duties of the Auditors, and the Auditors shall sign a Certificate at the foot of the Balance Sheet stating whether or not all their requirements as Auditors have been complied with, and shall make a report to the Shareholders on the Accounts examined by them, and on every Balance Sheet laid before the Company in General Meeting during their tenure of office ; and in every such Report shall state whether, in their opinion, the Balance Sheet referred to in the Report is properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs as shown by the books of the Company ; and such Report shall be read before the Company in General Meeting.

For special remarks on the Report and Certificate of the Auditor, as required by this Section, *see* Chapter XV.

Provisions as to Companies limited by guarantee.

27.—(1.) A Company limited by guarantee shall not be capable of having a capital divided into shares, unless the Memorandum of Association so provides, and specifies the amount of its capital (subject to increase or reduction in accordance with the Companies Acts) and the number of shares into which the capital is divided.

(2.) Every provision in any Memorandum or Articles of Association or Resolution of a Company (whether limited by guarantee or otherwise) purporting to divide the undertaking of the Company into shares or interests shall for the purposes of this Section be treated as a provision for a capital divided into shares, notwithstanding that the nominal amount or number of the shares or interests is not specified thereby.

(3.) In the case of a Company limited by guarantee and not having a capital divided into shares, every provision in the Memorandum or Articles of Association or in any Resolution of the Company purporting to give any person a right to participate in the divisible profits of the Company otherwise than as a member shall be void.

(4.) This Section shall apply only to Companies registered after the commencement of this Act.

28. If any person in any Return, Report, Certificate, Balance Sheet, or other document, required by or for the purposes of this Act, wilfully makes a statement false in any material particular, knowing it to be false, he shall be guilty of a misdemeanour, and shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, with or without hard labour, and on summary conviction to imprisonment for a term not exceeding four months, with or without hard labour, and in either case to a fine in lieu of or in addition to such imprisonment as aforesaid: Provided that the fine imposed on summary conviction shall not exceed one hundred pounds. Penalty for false statement

Among the documents "required by or for the purposes of this Act" are—

The Report referred to in Section 12, including that part of it which has by Subsection (3) to be certified by the Auditors.

The Balance Sheet and Report and Certificate of the Auditors, referred to in Section 23.

29. Every Company limited by shares, and which has, in pursuance of the Companies Act, 1862, converted any portion of its shares into stock, may so far modify the conditions in its Memorandum of Association, if authorised to do so by its Articles as originally framed or as altered by Special Resolution in manner provided in the Companies Act, 1862, as to reconvert such stock into paid-up shares of any denomination. Conversion of Stock into Shares, 25 & 26 Vict. c. 89.

31. This Act shall, except as otherwise expressed, apply to every Company, whether formed before or after the commencement of this Act. Application of Act.

36. This Act may be cited as the Companies Act, 1900, and may be cited with the Companies Acts, 1862 to 1898. Short Title.

The Companies (Colonial Registers) Act, 1883.

(46 & 47 Vict., c. 30.)

[20th August, 1883.]

1. This Act may be cited for all purposes as "The Companies (Colonial Registers) Act, 1883"; and this Act Short Title and construction.

shall, so far as is consistent with the tenor thereof, be construed as one with the Companies Acts, 1862 to 1880, and the said Acts and this Act may be referred to as "The Companies Acts, 1862 to 1883."

Definitions.

2. In this Act the term "Company" means a Company registered under the Companies Act, 1862, and having a capital divided into shares; the term "Shares" includes Stock; the term "Colony" does not include any place within the United Kingdom, the Isle of Man, or the Channel Islands, but includes such territories as may for the time being be vested in Her Majesty by virtue of an Act of Parliament for the Government of India, and any plantation, territory, or settlement situate elsewhere within Her Majesty's dominions.

Power for Companies to keep Colonial Registers.

3.—(1.) Any Company whose objects comprise the transaction of business in a colony may, if authorised so to do by its regulations as originally framed or as altered by Special Resolution, cause to be kept in any colony in which it transacts business a branch Register or Registers of Members resident in such colony.

(2.) The Company shall give to the Registrar of Joint Stock Companies notice of the situation of the office where any such Branch Register (in this Act called a Colonial Register) is kept, and of any change therein, and of the discontinuance of any such office in the event of the same being discontinued.

(3.) A Colonial Register shall, as regards the particulars entered therein, be deemed to be a part of the Company's Register of Members, and shall be *primâ facie* evidence of all particulars entered therein. Any such Register shall be kept in the manner provided by the Companies Acts, 1862 to 1880.

(4.) The Company shall transmit to its registered office a copy of every entry in its Colonial Register or Registers as soon as may be after such entry is made, and the Company shall cause to be kept at its registered office, duly entered up from time to time, a duplicate or

duplicates of its Colonial Register or Registers. The provisions of Section Thirty-two of the Companies Act, 1862, shall apply to every such duplicate, and every such duplicate shall, for all the purposes of the Companies Acts, 1862 to 1880, be deemed to be part of the Register of Members of the Company.

(5.) Subject to the provisions of this Act with respect to the duplicate Register, the shares registered in a Colonial Register shall be distinguished from the shares registered in the principal Register, and no transaction with respect to any shares registered in a Colonial Register shall, during the continuance of the registration of such shares in such Colonial Register, be registered in any other Register.

(6.) The Company may discontinue to keep any Colonial Register, and thereupon all entries in that Register shall be transferred to some other Colonial Register kept by the Company in the same colony, or to the Register of Members kept at the registered office of the Company.

(8.) Subject to the provisions of this Act, any Company may, by its regulations as originally framed, or as altered by Special Resolution, make such provisions as it may think fit respecting the keeping of Colonial Registers.

The Companies (Winding-Up) Act, 1890.

(53 & 54 Vict., c. 63.)

[18th August, 1890.]

Report on Winding-up and proceedings thereupon.

8.—(1.) Where the Court has made an order for winding up a Company, the Official Receiver shall, as soon as practicable after receipt of the Statement of the Company's affairs, submit a preliminary report to the Court—

(*a.*) as to the amount of Capital issued, subscribed, and paid up, and the estimated amount of Assets and Liabilities; and

(*b.*) if the Company has failed, as to the causes of the failure; and

(*c.*) whether in his opinion further inquiry is desirable as to any matter relating to the promotion, formation, or failure of the Company, or the conduct of the business thereof.

(2.) The Official Receiver may also, if he thinks fit, make a further report, or further reports, stating the manner in which the Company was formed and whether in his opinion any fraud has been committed by any person in the promotion or formation of the Company or by any Director or other Officer of the Company in relation to the Company since the formation thereof, and any other matters which in his opinion it is desirable to bring to the notice of the Court.

(3.) The Court may, after consideration of any such report, direct that any person who has taken any part in the promotion or formation of the Company, or has been a Director or Officer of the Company, shall attend before the Court on a day appointed by the Court for that purpose, and be publicly examined as to the promotion or formation of the Company, or as to the conduct of the business of the Company, or as to his conduct and dealings as Director or Officer of the Company.

As to an Auditor being an Officer of a Company under this Section *see* Note to Section 10 of this Act.

A report of the Official Receiver under Section 8, Subsection (2) of the Companies (Winding-up) Act, 1890, finding fraud will not, on the application of a person implicated, be taken off the file or sent back to the Official Receiver for reconsideration because it omits some material facts; but the Court, in directing a public examination, exercises a judicial discretion, and will consider whether the facts stated in the report are sufficient to support an application for a public examination.—*In re New Travellers' Chambers*, II. Manson 110.

(7.) The person examined shall be examined on oath, and it shall be his duty to answer all such questions as the Court may put or allow to be put to him. The person examined shall at his own cost, prior to such examination, be furnished with a copy of the Official Receiver's report,

and shall also at his own cost be entitled to employ at such examination a Solicitor, with or without Counsel, who shall be at liberty to put such questions to the person examined as the Court may deem just for the purpose of enabling that person to explain or qualify any answers given by him. Provided always, that if such person is, in the opinion of the Court, exculpated from any charges made or suggested against him, the Court may allow him such costs as the Court in its discretion may think fit. Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may thereafter be used in evidence against him.

Power of Court to assess damages against delinquent Directors, Officers, and Promoters.

10.—(1.) Where in the course of the winding-up of a Company under the Companies Acts it appears that any person who has taken part in the formation or promotion of the Company, or any past or present Director, Manager, Liquidator, or other Officer of the Company, has misapplied or retained or become liable or accountable for any moneys or property of the Company, or been guilty of any misfeasance or breach of trust in relation to the Company, the Court may, on the application of the Official Receiver, or of the Liquidator of the Company, or of any creditor or contributory of the Company, examine into the conduct of such Promoter, Director, Manager, Liquidator, or other Officer of the Company, and compel him to repay any moneys or restore any property so misapplied or retained, or for which he has become liable or accountable, together with interest after such rate as the Court thinks just, or to contribute such sums of money to the assets of the Company by way of compensation in respect of such misapplication, retainer, misfeasance, or breach of trust as the Court thinks just.

(2.) The provisions of this Section shall apply in the winding-up of any Company under the Companies Acts, whether the same is being wound up by or subject to the supervision of the Court, or is being wound up voluntarily, and whether the winding-up commenced before or after the

passing of this Act, and notwithstanding that the offence is one for which the offender may be criminally responsible.

An Auditor may or may not be an "Officer" of a Company, and *primâ facie* he is not; but if he is appointed to the office of Auditor to the Company, and acts in that office, he will be an Officer within this Section; and in case the Company is wound up he will be liable to a misfeasance summons under that Section in respect of dividends declared upon the faith of his audit; and no irregularity in his appointment would avail him as a defence. But, seeing that the word "Auditor" does not occur in this Section, the performance of Auditor's work upon a given occasion by a person who has never been appointed to the office of Auditor of the Company does not make that person an "Officer" of the Company so as to render him liable under the Section.—*In re Western Counties Steam Bakeries and Milling Co.* [1897] 1 Ch. 617.

Auditors who have been appointed by a Banking Company in pursuance of the Companies Act, 1879, s. 7, and are spoken of as Officers of the Company in the Articles of Association, are Officers within the meaning of this Section, and if guilty of misfeasance may be made liable in proceedings under this Section.—*In re London & General Bank* [1895] 2 Ch. 166.

Misfeasance is defined in Wharton's Law Lexicon as "a misdeed or trespass; also the improper performance of some lawful act"; and James L.J., in reference to Section 165 of the Act of 1862, laid down that the word "misfeasance" is there confined to a misfeasance in the nature of a breach of trust.—*Coventry & Dixon's Case*, 14 Ch. D. 660, 670.

Misfeasance covers every misconduct by an Officer of the Company as such for which such Officer might have been sued apart from the Section, and includes the case of an Auditor who, either knowingly or through failure to use reasonable skill and care, certifies Accounts which ought not to have been certified, provided the direct result is pecuniary damage to the Company.—*In re Kingston Cotton Mill Co.* (No. 2) [1896] 1 Ch. 331.

The omission or neglect of a Trustee, Director, or Manager to comply with statutory provisions as to audit may constitute misfeasance. —*Davies' Case*, 45 Ch. D. 537.

The onus of proving misfeasance is on the applicant, so that, even if the misfeasance alleged be non-disclosure, the applicant must prove non-disclosure.—*Bentinck v. Fenn*, 12 App. Cas. 652, &c.

The Section is personal only, and does not apply as against the executors of a deceased Director or Officer.—*Felton's Executors' Case*, 1 Eq. 219; *British Guardian Co.*, 14 Ch. D. 335.

The Section applies to misfeasance, not to non-feasance.—*Wedgwood Coal Co.*, 10 Ch. D. 450.

As to whether an Auditor is an Officer of every Company registered under the Act of 1862, *see* remarks in Chapter I., p. 20.

The Liquidator of a Company, in order to obtain evidence in support of a misfeasance summons which he had issued against the Directors and Auditors, applied under Sec. 115 of the Act of 1862 for an order that the Surveyor of Taxes should attend for examination, and produce some Balance Sheets of the Company which had been delivered to him for the purpose of assessment of income tax, in order to prove as against the Auditors the case alleged by the summons. Wright J. held that the order ought not to be made, and the Court of Appeal upheld his decision.—*In re Joseph Hargreaves, Limited* [1900] 1 Ch. 347.

In an action to realise Debentures granted by a Company, which was afterwards ordered to be wound up, a summons was taken out by the Official Receiver and Liquidator, asking for the leave of the Court to take misfeasance proceedings against the Directors and Auditors of the Company, and that the costs might be provided by the Receiver in the action. A majority of the Debenture-holders was opposed to misfeasance proceedings being taken at the expense of the assets covered by the Debentures, and also to abandoning the claims of the Debenture-holders to any sums recovered in the proceedings. A suggestion was, however, made by a Debenture-holder that if there were people who believed they could make a good thing out of a misfeasance summons they would be prepared, for the right to step into the Debenture-holders' shoes, to pay a substantial sum, but that the right should not be given up without anything in return. It was held that an order must be made directing the Receiver to sell by auction the claim against the Directors and Auditors. —*Wood v. Woodhouse & Rawson United* [1896] W.N. 4.

Audit of Liquidator's Accounts.

20.—(1.) Every Liquidator of a Company which is being wound up by order of the Court shall, at such times as may be prescribed, but not less than twice in each year during his tenure of office, send to the Board of Trade, or as they direct, an Account of his receipts and payments as such Liquidator.

(2.) The Account shall be in a prescribed form, shall be made in duplicate, and shall be verified by a statutory declaration in the prescribed form.

(3.) The Board of Trade shall cause the Accounts so sent to be audited, and for the purpose of the audit the Liquidator shall furnish the Board with such vouchers and information as the Board may require, and the Board may at any time require the production of and inspect any books or accounts kept by the Liquidator.

(4.) When any such Account has been audited, one copy

thereof shall be filed and kept by the Board, and the other copy shall be filed with the Court, and each copy shall be open to the inspection of any creditor, or of any person interested.

(5.) The Board of Trade shall cause the Account or a summary thereof when audited to be printed, and shall send a printed copy thereof by post to every creditor and contributory.

Short Title.

35.—(1.) This Act may be cited as "The Companies (Winding-up) Act, 1890."

(2.) This Act and the Companies Acts, 1862 to 1886, may be cited together as "The Companies Acts, 1862 to 1890."

The Mortgage Debenture Act, 1865.

(28 & 29 Vict., c. 78.)

[29th June, 1865.]

Short Title.

1. This Act may be cited for all purposes as "The Mortgage Debenture Act, 1865."

Extent of Act.

2. This Act shall extend and apply to, and the powers hereby conferred may be exercised by, all such Companies incorporated and carrying on business under the Companies Act, 1862, or under any Act of Parliament, as now or hereafter may be entitled to advance money on the security of land ; and in the construction of this Act the expression "the Company" means any Company to which this Act applies, and which shall for the time being be availing itself of the provisions of this Act.

No Company to avail themselves of Act unless it shall comply with Provisions herein named.

3. No Company shall be entitled to avail itself of this Act unless it shall comply with the following provisions :

First. The Company must, under its Act of Parliament or Memorandum of Association, be limited to one or more of the following objects :

(1.) The making of advances of money upon any of the following Securities :—

(*a.*) Lands, messuages, hereditaments, and real property and all estates and interests therein :

(*b.*) Rates, dues, assessments, and impositions upon the owners or occupiers of lands or real property imposed by or under the authority of any Act of Parliament, public or private, Royal Charter, Commission of Sewers or Drainage, or other sufficient legal authority :

(*c.*) Charges and Securities upon or affecting lands, messuages, hereditaments, and real property executed, made, given, or issued under the authority of any Act of Parliament, public or private :

(2.) The borrowing of money on transferable Mortgage Debentures, or on one or more of the Securities above-mentioned :

Provided that any Company already constituted under the Companies Act, 1862, for the purpose of making advances on real Securities : and whose Memorandum of Association includes but is not limited to the objects hereinbefore specified, may, by special resolution in accordance with the provisions of that Act, alter its Memorandum for the purpose of limiting and so as to limit its objects and business to those so specified ; and such Company shall thereupon be and become a Company constituted and carrying on business under such altered Memorandum, and on its being shown to the satisfaction of the Registrar hereinafter mentioned that such alteration has been made, and that all obligations, if any, entered into by the Company in respect of the business which prior to such special resolution it was empowered to transact, other than the business to which it will be limited after the passing of such special resolution, have been discharged, and that the Articles of Association of the Company are in accordance with the altered Memorandum, such Company shall be deemed to be a Company within this Act and entitled to the benefits thereof :

Second. The Company must have a paid-up Capital of not less than one hundred thousand pounds :

Third. Each share must be of the nominal value of not less than fifty pounds, of which not less than one-tenth nor more than one-half must have been paid up.

Power to Company to borrow Money on Mortgage Debentures.

4. Subject to the provisions and restrictions of this Act, the Company may from time to time borrow money upon Mortgage Debentures to be issued by it under the authority of this Act.

Register of Securities to be established in Office of Land Registry.

7. For the purposes of such registration there shall be established in such Office of Land Registry, in respect of every Company issuing Mortgage Debentures under this Act, a Register, with the name of the Company attached, which shall be called a Register of Securities under the Mortgage Debentures Act, 1865.

Registrar of Titles, &c., to conduct Business of Register.

8. The business of the registration shall be conducted in such office in accordance with such rules and regulations as the Registrar, with the sanction of the Lord Chancellor, from time to time shall prescribe.

Upon Deposit with Registrar of Securities held by Company, and the Deeds relating thereto, and Certificate of Company, and Declaration of Surveyor, Registrar may register Deed creating Security.

9. Upon production to and deposit with the Registrar of the deeds or instruments purporting to be duly executed and stamped as aforesaid, together with a certificate under the common seal of the Company and the hands of one or more Directors and of the Secretary or Accountant of the Company, in the form or to the effect of Form (A) in the Schedule hereto, and in the cases hereinafter mentioned of the certificate of a Surveyor as hereinafter provided, the Registrar shall enter in the proper Register of Securities the date of every such deed or other instrument, its nature, whether mortgage, grant of annuity, rentcharge, or other Security, the amount of the principal money or the amount and duration of the annuity thereby secured, and the tenure, extent, and situation of the property upon which the security is taken: Provided always that the Registrar shall not register any deed or instrument relating to or affecting any property not situate in *England* or *Wales*.

Power to Company to issue

11. Upon the Securities so from time to time registered, the Company may found and issue its Mortgage

Debentures not exceeding Amount of registered Securities, &c.

Debentures, but so that the aggregate principal sum secured by all the Mortgage Debentures shall never exceed at any one time the then total amount (to be ascertained in the manner hereinafter provided) of the registered Securities of the Company, and also shall never exceed ten times the amount for the time being uncalled of its subscribed share Capital.

Before Company shall register any Mortgage Debentures, it shall file a Return containing Particulars herein named.

12. Before any Company entitled to issue Mortgage Debentures under the provisions of this Act shall register any such Mortgage Debentures under the provisions of this Act, such Company shall file in the office of the Land Registry a return containing the following and such other particulars as the Registrar may from time to time require, which return shall be under the hand of one at least of the Directors of the Company and the Secretary :

(*a.*) The amount of the nominal Capital of the Company, and the number and amount of shares into which the same is divided :

(*b.*) The amount *per* share and the aggregate amount paid up on the shares :

(*c.*) The assets or property of the Company at the date of the return, and how invested :

(*d.*) The names, addresses, and occupations of the Directors and Auditors of the Company :

(*e.*) The registered office of the Company.

Company may issue new Debentures in lieu of those paid off.

13. If and whenever any of such Mortgage Debentures shall be paid off by the Company, the Company may issue new Mortgage Debentures in lieu thereof, and so from time to time, provided that the aggregate principal sum secured by all the Mortgage Debentures then issued and outstanding shall not exceed either of the before-mentioned limits.

Rights of Holders of Mortgage Debentures.

15. The persons from time to time entitled to the Company's Mortgage Debentures shall, proportionally, according to the amount of the moneys secured thereby, be entitled one with another to the benefit of the registered Securities of the Company upon which such Mortgage Debentures are founded, without any preference

one above another by reason of priority of the date of any such Mortgage Debenture or otherwise.

Company to make Quarterly Returns to Registrar.

21. When and so long as the Company issues any Mortgage Debentures under this Act, and from time to time so long as any Mortgage Debenture so issued remains outstanding, the Company shall, within ten days after every Quarter-Day as hereinafter defined, make out and deliver to the Registrar the Quarterly Return by this Act prescribed; and every Quarterly Return shall be verified by the Statutory Declaration of two Directors, and the Manager, Secretary, or Accountant of the Company.

Quarter-Days for Purposes of Act.

22. The thirty-first day of *March*, the thirtieth day of *June*, the thirtieth day of *September*, and the thirty-first day of *December* in every year shall be the Quarter-Days for the purposes of this Act.

Quarterly Returns made to Registrar to be as in Form (C) in Schedule, and to contain Particulars herein named.

23. Every Quarterly Return to be made by the Company to the Registrar shall be in the form set forth in Form (C) in the Schedule to this Act, or as near thereto as circumstances may admit, and shall contain, with reference to the then last Quarterly Day, the following particulars:

(*a.*) An account of all the Securities of the Company's at that time registered, showing the aggregate of all principal sums remaining secured thereby and unpaid, and showing also the aggregate amount or the aggregate estimated value of all annuities and other periodical payments secured thereby:

(*b.*) An account showing the aggregate amount and the estimated value of the Company's other investments, and also the total number and aggregate nominal amount of the shares of the Company's Capital held by persons registered in the Company's books as the holders thereof, and the aggregate amount paid up in respect of those registered shares, and the aggregate amount remaining to be paid thereon:

(*c.*) The numbers and dates of the several Mortgage

Debentures issued by the Company and remaining in force, and the several principal sums secured by those Mortgage Debentures respectively, and the aggregate amount thereof, and the rates of interest payable on those principal sums respectively, and the time or times for the repayment of those principal sums respectively.

Total Amount of registered Securities.

25. The aggregate of all principal sums remaining secured by the registered Securities, together with the aggregate amount or value of the said annuities as so ascertained or estimated, shall, for the purposes of this Act, be deemed to be the total amount for the time being of the registered Securities of the Company.

Company to keep "Register of Securities."

27. The Company shall keep a Register, to be called the "Register of Securities," in which shall be entered the date of every deed or other instrument registered at the Land Registry for the purposes of this Act, its nature, whether mortgage, grant of annuity, rentcharge, or other Security, the amount of the principal money, or the amount and duration of the annuity thereby secured, the tenure, extent, and situation of the property upon which the Security is taken, and if there are any charges which take priority of the Company's Security, then the amount of such prior charges.

Mortgage Debentures to be numbered.

29. The Mortgage Debentures shall be numbered consecutively, beginning with number one, and every Mortgage Debenture shall be distinguished by its appropriate number; and notwithstanding the cancellation, loss, or destruction of a Mortgage Debenture, no other Mortgage Debenture shall bear the number of that so cancelled, lost, or destroyed.

List of Mortgage Debentures to be kept by Company.

31. A book containing a list of Mortgage Debentures shall be kept by the Company's Secretary, and on the issue of any Mortgage Debenture an entry of the number and date thereof, and of the principal money secured thereby, and the name, description, and residence of the person to whom it is issued shall be entered in such book.

Register of Mortgage Debentures.

32. There shall also be established and kept in the Office of Land Registry, by or under the direction of the Registrar, in respect of every Company issuing Mortgage Debentures under this Act, a Register of the Mortgage Debentures of the Company.

Registration of Mortgage Debentures.

33. When any Mortgage Debenture of the Company is duly executed and stamped, the Company shall produce it to the Registrar, in order to its being registered, and thereupon the Registrar shall enter in the Register of Mortgage Debentures the number and the date of the Mortgage Debenture, the amount of the principal money thereby secured, and the time or times for repayment of the principal money thereby secured, and shall make on the Mortgage Debenture an indorsement stating the day on which the Mortgage Debenture was produced to him for registration, and of the page of the book in which the entry thereof is made ; and without such an indorsement no Mortgage Debenture shall be a charge under this Act upon the registered securities of the Company.

No Notice of Trust receivable by Company.

35. No notice of any trust in respect of any Mortgage Debenture shall be receivable by the Company.

Not exempt from Joint Stock Companies Acts.

52. This Act thall not exempt the Company from the provisions of any Act relating to Joint Stock Companies, and applicable to the Company.

The Mortgage Debenture (Amendment) Act, 1870.

(33 & 34 Vict., c. 20.)

[4th July, 1870.]

This Act and 28 & 29 Vict., c. 78, to be construed together.

1. This Act shall be construed as one with the Mortgage Debenture Act, 1865 (which is hereinafter referred to as "the Principal Act"), and may be cited for all purposes as "The Mortgage Debenture (Amendment) Act, 1870."

Nature of Securities on which Debentures may be founded.

4. The Securities upon and in respect of which Mortgage Debentures may be founded and issued under the authority of the principal Act shall be Securities affecting property in England or Wales of the following descriptions :

(*a.*) Lands, messuages, hereditaments, or real property, or some estate or interest therein :

(*b.*) Rates, dues, assessments, or impositions upon the owners or occupiers of lands, messuages, hereditaments, or real property imposed by or under the authority of any Act of Parliament, public or private, Royal Charter, Commission of Sewers or Drainage, or other sufficient legal authority :

(*c.*) Charges upon or affecting lands, messuages, hereditaments, or real property executed, made, given, or issued under the authority of any Act of Parliament, public or private :

But from the Securities described in paragraph (*a*) shall be excepted Securities upon mines or mineral property, quarries, brickfields, and factories, mills, and other buildings or works for manufacturing purposes, and also Securities upon leasehold estates determinable upon a life or lives, and not renewable, or held for a term of which at the date of the Security less than fifty years shall be unexpired, or which are held at a rent beyond one-fourth part of the annual value of the property leased as estimated at the date of the Security given to the Company and verified by the statutory declaration of a surveyor as hereinafter provided with respect to the value of the Securities to be registered.

In construing this Act the word "Securities" shall be deemed to mean such Securities as above defined and restricted, and no others.

Company to file Return in office of Land Registry.

6. Before any Company shall be entitled to avail itself of the provisions of the principal Act and this Act such Company shall file in the office of the Land Registry a return containing the following and such other particulars as the Registrar may from time to time require, which return shall be under the hand of one, at least, of the Directors of the Company and the Secretary.

(*a.*) The amount of the nominal Capital of the Company:

(*b.*) The amount per share and the aggregate amount paid up on the shares :

(*c.*) The Assets or property of the Company at the date of the return, and how invested :

(*d.*) The names, addresses, and occupations of the Directors and Auditors of the Company :

(*e.*) The registered office of the Company.

Registered Securities charged with payment of Debentures and not applicable for any other purpose until discharged from registration.

7. All the registered Securities for the time being of the Company shall be charged with the payment of the principal moneys and interest from time to time payable upon or in respect of all the Mortgage Debentures of the Company for the time being issued and outstanding, and no registered Security until discharged therefrom, as hereinafter provided, shall be applicable to or available for any other purpose than the satisfaction of such principal moneys and interest, or be transferred, disposed of, or otherwise dealt with by the Company, unless and until the same shall have been discharged from registration in the manner hereinafter provided : Provided, nevertheless, that such registration shall not prevent the Company from receiving, applying, and giving a valid discharge for any instalments payable by the terms of the deed creating the Security or any annuities or interest which may from time to time be receivable upon or in respect of any such security, unless where a Receiver shall have been actually appointed under the provisions of the principal Act.

Inspection of Registers and Returns.

11. Subject to the regulations mentioned in Section 19 of the principal Act, and on payment of such fees as the Registrar with the sanction of the Lord Chancellor from time to time prescribes, any person may inspect and make copies of and extracts from the Register of Securities, the Register of Mortgage Debentures, and the returns made by the Company to the Registrar under the provisions of the principal Act.

Additional particulars to be contained in Quarterly Returns to Registrar.

12. In addition to the particulars required to be contained in the Quarterly Return to be made by the Company to the Registrar by the 23rd Section of the principal Act, every such Quarterly Return shall contain the following particulars :—

(*a.*) The names, addresses, and occupations of the Directors and Auditors of the Company:

(*b.*) The registered office of the Company.

Value of Mortgage or Security shall be deemed to be amount of principal money, &c., for purpose of Quarterly Returns.

13. Where by any Mortgage or other like Security to the Company the principal is expressly distinguished from the interest, and such principal is made payable by periodical payments, the amount or value of such Mortgage or Security shall for the purpose of the Quarterly Returns be deemed to be the amount of principal money exclusive of interest remaining unpaid thereon at the date of the Quarterly Return.

If not otherwise provided, value of annuities, &c., to be estimated by an Actuary.

14. In all cases not provided for by the last section the amount or value of the annuities and other periodical payments to be comprised in the Quarterly Returns shall be ascertained or estimated by an Actuary approved by the Registrar.

Terms on which Mortgage Debentures may be issued.

16. The Mortgage Debentures shall be for the payment of principal sums, either at a fixed time to be named therein, not less than six months nor exceeding ten years from the date, or at any time on six calendar months' previous notice being given to the Company by the holder for the time being of the Mortgage Debenture, or by the Company to the holder for the time being of the Mortgage Debenture with interest thereon in the meantime at such rate as may be agreed payable half-yearly or otherwise, and no Mortgage Debenture shall be issued for a less principal sum than fifty pounds.

Entry in Register of discharge of Mortgage Debenture.

17. When a Mortgage Debenture is produced by the Company to the Registrar discharged or cancelled, he shall make in the Register of Mortgage Debentures an entry of the discharge thereof.

Company not exempt from Joint Stock Companies Acts.

18. Nothing in this Act shall exempt the Company from the provisions of any Act relating to Joint Stock Companies, and applicable to the Company.

The Companies Clauses Consolidation Act, 1845. (8 Vict., c. 16.)

[8th May, 1845.]

Act to apply to all Companies incorporated by Acts hereafter to be passed.

1. This Act shall apply to every Joint Stock Company which shall by any Act which shall hereafter be passed be incorporated for the purpose of carrying on any undertaking, and this Act shall be incorporated with such Act; and all the Clauses and Provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the Company which shall be incorporated by such Act, and to the undertaking for carrying on which such Company shall be incorporated, so far as the same shall be applicable thereto respectively; and such Clauses and Provisions, as well as the Clauses and Provisions of every other Act which shall be incorporated with such Act, shall, save as aforesaid, form part of such Act, and be construed together therewith as forming one Act.

"The Special Act."

2. The expression "the Special Act" used in this Act shall be construed to mean any Act which shall be hereafter passed incorporating a Joint Stock Company for the purpose of carrying on any undertaking, and with which this Act shall be so incorporated as aforesaid.

Short Title of the Act.

4. And be it enacted, that in citing this Act in other Acts of Parliament, and in legal instruments, it shall be sufficient to use the expression "The Companies Clauses Consolidation Act, 1845."

Capital to be divided into Shares.

6. The Capital of the Company shall be divided into shares of the prescribed number and amount; and such shares shall be numbered in arithmetical progression, beginning with number one; and every such share shall be distinguished by its appropriate number.

This Section does not prevent the Company from reducing the amount of the shares.—*Ambergate Railway Company v. Mitchell*, 6 R.C. 235.

The provision with regard to the numbering of the shares is directory only.—*Portal v. Emmens*, 1 C.P.D. 201, 664.

Register of Shareholders.

9. The Company shall keep a book to be called the "Register of Shareholders"; and in such book shall be

fairly and distinctly entered, from time to time, the names of the several Corporations, and the names and additions of the several persons entitled to shares in the Company, together with the number of shares to which such shareholders shall be respectively entitled, distinguishing each share by its number, and the amount of the subscriptions paid on such shares, and the surnames or corporate names of the said shareholders, shall be placed in alphabetical order; and such book shall be authenticated by the common seal of the Company being affixed thereto; and such authentication shall take place at the First Ordinary Meeting, or at the next subsequent Meeting of the Company, and so from time to time at each Ordinary Meeting of the Company.

For the purpose of paying debts, entry upon the Register, or even the existence of a Register, is not material.—*Portal v. Emmens*, 1 C.P.D. 201, 664.

The Section is merely directory, but it must be substantially complied with in order to make the Register evidence of a Defendant in an action for calls being a Shareholder.—*East Gloucestershire Railway Company v. Bartholomew*, L.R., 3 Ex. 15.

Addresses of Shareholders

10. In addition to the said Register of Shareholders, the Company shall provide a book, to be called the "Shareholders' Address Book," in which the Secretary shall from time to time enter in alphabetical order the corporate names and places of business of the several shareholders of the Company, being Corporations, and the surnames of the several other shareholders, with their respective Christian names, places of abode, and descriptions, so far as the same shall be known to the Company.

Power to Borrow Money.

38. If the Company be authorised by the special Act to borrow money on Mortgage or Bond, it shall be lawful for them, subject to the restrictions contained in the special Act, to borrow on Mortgage or Bond such sums of money as shall from time to time, by an order of a General Meeting of the Company, be authorised to be borrowed,

not exceeding in the whole the sum prescribed by the special Act, and for securing the repayment of the money so borrowed, with interest, to mortgage the undertaking, and the future calls on the Shareholders, or to give Bonds in manner hereinafter mentioned.

A Company incorporated by Statute can borrow money only within the limits and in the manner authorised by Statute.

Where, therefore, there is no power to borrow, it is *ultra vires* to overdraw the banking account, this being in effect borrowing.—*Blackburn Building Society v. Cunliffe Brooks & Co.*, 22 Ch. D. 61.

Such a Company cannot, therefore, without express powers, issue bills of exchange.—*Bateman v. Mid-Wales Railway Co.*, L.R., 1 C.P. 499.

It can, however, incur debts in the ordinary course of its business.

Power to Re-borrow.

39. If, after having borrowed any part of the money so authorised to be borrowed on Mortgage or Bond, the Company pay off the same, it shall be lawful for them again to borrow the amount so paid off, and so from time to time; but such power of re-borrowing shall not be exercised without the authority of a General Meeting of the Company, unless the money be so re-borrowed in order to pay off any existing Mortgage or Bond.

Register of Mortgages and Bonds.

45. A Register of Mortgages and Bonds shall be kept by the Secretary, and within fourteen days after the date of any such Mortgage or Bond an entry or memorial, specifying the number and date of such mortgage or bond and the sums secured thereby, and the names of the parties thereto, with their proper additions, shall be made in such Register; and such Register may be perused at all reasonable times by any of the shareholders, or by any mortgagee or bond creditor of the Company, or by any person interested in any such Mortgage or Bond, without fee or reward.

The right of perusal may be exercised without assigning any reason, and may be enforced by injunction.—*Holland v. Dickson*, 37 Ch. D. 669. The right includes a right to take copies.—*Mutter v. Eastern and Midlands Railway Co.*, 38 Ch. D. 92.

Persons entitled to inspect the Register under this Section would appear to be entitled to inspection by their Solicitor. — *See In re Credit Co.*, 11 Ch. D. 256.

Payment of Interest on Moneys borrowed.

48. The interest of the money borrowed upon any such Mortgage or Bond shall be paid at the periods appointed in such Mortgage or Bond, and if no period be appointed, half-yearly, to the several parties entitled thereto, and in preference to any dividends payable to the shareholders of the Company.

If the debt be not repaid on the day appointed, the mortgage or bond will continue to carry interest, although not so expressed in the deed.—*Price v. Great Western Railway Co.*, 16 M. & W. 244.

Access to Account Books by Mortgagees.

55. At all reasonable times the Books of Account of the Company shall be open to the inspection of the respective mortgagees and bond creditors thereof, with liberty to take extracts therefrom without fee or reward.

Power to convert Loan into Capital.

56. It shall be lawful for the Company, if they think fit, unless it be otherwise provided by the special Act, to raise the additional sum so authorised to be borrowed, or any part thereof, by creating new shares of the Company, instead of borrowing the same, or, having borrowed the same, to continue at interest only a part of such additional sum, and to raise part thereof by creating new shares ; but no such augmentation of Capital as aforesaid shall take place without the previous authority of a General Meeting of the Company.

New Shares to be considered same as original Shares.

57. The Capital so to be raised by the creation of new shares shall be considered as part of the general capital, and shall be subject to the same provisions in all respects, whether with reference to the payment of calls, or the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original Capital, except as to the times of making calls for such additional capital, and the amount of such calls, which respectively it shall be lawful for the Company from time to time to fix as they shall think fit.

Power to consolidate Shares into Stock.

61. It shall be lawful for the Company from time to time, with the consent of three-fifths of the votes of the shareholders present in person or by proxy at any General Meeting of the Company, when due notice for that purpose shall have been given, to convert or

consolidate all or any part of the shares then existing in the Capital of the Company, and in respect whereof the whole money subscribed shall have been paid up, into a General Capital Stock, to be divided amongst the shareholders according to their respective interests therein.

Register of Stock.

63. The Company shall from time to time cause the names of the several parties who may be interested in any such Stock as aforesaid, with the amount of the interest therein possessed by them respectively, to be entered in a book to be kept for the purpose, and to be called "The Register of Holders of Consolidated Stock."

Application of Capital.

65. And be it enacted, that all the money raised by the Company, whether by subscriptions of the shareholders, or by loan or otherwise, shall be applied, firstly, in paying the costs and expenses incurred in obtaining the special Act, and all expenses incident thereto, and, secondly, in carrying the purposes of the Company into execution.

Ordinary Meetings to be held Half-yearly.

66. The first General Meeting of the shareholders of the Company shall be held within the prescribed time, or, if no time be prescribed within one month after the passing of the special Act, and the future General Meetings shall be held at the prescribed periods, and, if no periods be prescribed, in the months of February and August in each year, or at such other stated periods as shall be appointed for that purpose by an order of a General Meeting; and the meetings so appointed to be held as aforesaid shall be called "Ordinary Meetings," and all meetings, whether ordinary or extraordinary, shall be held in the prescribed place, if any, and, if no place be prescribed, then at some place to be appointed by the Directors.

Business at Ordinary Meetings.

67. No matters, except such as are appointed by this or the special Act to be done at an Ordinary Meeting, shall be transacted at any such meeting, unless special notice of such matters have been given in the advertisement convening such meeting.

It is at these Half-yearly Ordinary Meetings that the Accounts are

produced to the Shareholders (*see* Sections 116, 118) and Dividends declared.

At the first Ordinary Meeting in each year one of the Auditors retires and is re-elected, or a new Auditor appointed in his place (*see* Sections 101, 103).

If any vacancy takes place among the Auditors in the course of the year, then the Shareholders may fill the vacancy at any General Meeting (*see* Section 104).

Special notice of intention to vote remuneration to Directors must be given.—*Hutton v. West Cork Railway Co.*, 23 Ch. D. 654.

Powers of the Company to be exercised only at a General Meeting.

91. Except as otherwise provided by the special Act, the following powers of the Company (that is to say), the choice and removal of the Directors, except as hereinbefore mentioned, and the increasing or reducing of their number where authorised by the special Act, the choice of Auditors, the determination as to the remuneration of the Directors, Auditors, Treasurer, and Secretary, the determination as to the amount of money to be borrowed on mortgage, the determination as to the augmentation of Capital, and the declaration of dividends, shall be exercised only at a General Meeting of the Company.

Proceedings to be entered in a Book and to be Evidence.

98. The Directors shall cause notes, minutes, or copies, as the case may require, of all appointments made or contracts entered into by the Directors, and of the orders and proceedings of all meetings of the Company and of the Directors and Committees of Directors, to be duly entered in books, to be from time to time provided for the purpose, which shall be kept under the superintendence of the Directors, and every such entry shall be signed by the Chairman of such meeting.

Election of Auditors.

101. Except where, by the special Act, Auditors shall be directed to be appointed otherwise than by the Company, the Company shall, at the First Ordinary Meeting after the passing of the Special Act, elect the prescribed number of Auditors, and if no number is prescribed two Auditors, in like manner as is provided for the election of Directors ; and at the First Ordinary Meeting of the Company in each year thereafter the

Company shall in like manner elect an Auditor to supply the place of the Auditor then retiring from office, according to the provision hereinafter contained; and every Auditor elected as hereinbefore provided, being neither removed nor disqualified nor having resigned, shall continue to be an Auditor until another be elected in his stead.

Qualification of Auditors.

102. Where no other qualification shall be prescribed by the special Act, every Auditor shall have at least one share in the undertaking; and he shall not hold any office in the Company, nor be in any other manner interested in its concerns, except as a shareholder.

This Section is amended as to Railways by the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), Sections 11 & 12, and an Auditor appointed under that Act need not be a Shareholder.

Rotation of Auditors.

103. One of such Auditors (to be determined in the first instance by ballot between themselves, unless they shall otherwise agree, and afterwards by seniority) shall go out of office at the First Ordinary Meeting in each year; but the Auditor so going out shall be immediately re-eligible, and after any such re-election shall, with respect to the going out of office by rotation, be deemed a new Auditor.

Vacancies in office of Auditor.

104. If any vacancy take place among the Auditors in the course of the current year, then at any General Meeting of the Company the vacancy may, if the Company think fit, be supplied by election of the shareholders.

Failure of Meeting to elect Auditor.

105. The provision of this Act respecting the failure of an Ordinary Meeting at which Directors ought to be chosen shall apply, *mutatis mutandis*, to any Ordinary Meeting at which an Auditor ought to be appointed.

If the prescribed quorum of shareholders be not present within an hour, no election of Auditors can be made, and the meeting stands adjourned to the following day at the same time and place, when, if the prescribed quorum be not present within an hour, the existing Auditors will continue to act until the First Ordinary Meeting of the following year.

106. The Directors shall deliver to such Auditors the half-yearly or other periodical Accounts and Balance Sheet fourteen days at the least before the ensuing Ordinary Meeting at which the same are required to be produced to the shareholders as hereinafter provided. Delivery of Balance Sheet, &c., by Directors to Auditors.

The Forms of Accounts and Balance Sheet prescribed by the Gas-works Clauses Act (1847) Amendment, and by the Regulation of Railways Act, 1868, will be found in Appendix.

107. It shall be the duty of such Auditors to receive from the Directors the half-yearly or other periodical Accounts and Balance Sheet required to be presented to the shareholders, and to examine the same. Duty of Auditors.

108. It shall be lawful for the Auditors to employ such Accountants and other persons as they may think proper, at the expense of the Company, and they shall either make a Special Report on the said Accounts, or simply confirm the same; and such Report or Confirmation shall be read, together with the Report of the Directors, at the Ordinary Meeting. Powers of Auditors.

The power given by this Section is conferred on each Auditor.—*Steele v. Sutton Gas Company*, 12 Q.B.D. 68; *see* Chapter XIV.

And with respect to the keeping of Accounts, and the right of inspection thereof by the shareholders, be it enacted as follows:

115. The Directors shall cause full and true Accounts to be kept of all sums of money received or expended on account of the Company by the Directors and all persons employed by or under them, and of the matters and things for which such sums of money shall have been received or disbursed and paid. Accounts to be kept.

The common order for inspection includes the Plaintiff, his Solicitors, and Agents, which appears to be limited to a general Agent.—*Draper v. Manchester, Sheffield & Lincolnshire Railway Company*, 3 D.F. & J. 23; 9 W.R. 215.

Inspection by witnesses will only be allowed if a special case is made out.

A professional Accountant, or a person familiar with accounts, will be allowed to inspect, if the action involves complicated accounts, but not otherwise.—*Swansea Vale Railway Co. v. Budd*, 2 Eq. 274; *Lindsay v. Gladstone*, 9 Eq. 132.

A professional Accountant will not be allowed to inspect the books of a Company if he be also the Auditor of a rival Company.—*Draper v. Manchester, Sheffield & Lincolnshire Railway Co.*, 3 D.F. & J. 23; 9 W.R. 215.

Books to be balanced.

116. The books of the Company shall be balanced at the prescribed periods, and, if no periods be prescribed, fourteen days at least before each Ordinary Meeting; and, forthwith on the books being so balanced, an exact Balance Sheet shall be made up, which shall exhibit a true Statement of the Capital Stock, Credits, and Property of every description belonging to the Company, and the debts due by the Company at the date of making such Balance Sheet, and a distinct view of the Profit or Loss which shall have arisen on the transactions of the Company in the course of the preceding half-year; and previously to each Ordinary Meeting such Balance Sheet shall be examined by the Directors, or any three of their number, and shall be signed by the Chairman or Deputy-Chairman of the Directors.

As by Section 106 the Directors have to deliver to the Auditors the Balance Sheet and Accounts fourteen days at the least before the Ordinary Meeting, it follows that, should the Directors only balance the books on the last day allowed by Section 116, they must be delivered to the Auditors the same day.

Inspection of Accounts by Shareholders at stated times.

117. The Books so balanced, together with such Balance Sheet as aforesaid, shall for the prescribed periods, and if no periods be prescribed for fourteen days previous to each Ordinary Meeting, and for one month thereafter, be open for the inspection of the shareholders at the principal office or place of business of the Company; but the shareholders shall not be entitled at any time, except during the periods aforesaid, to demand the inspection of such Books, unless in virtue of a written order signed by three of the Directors.

Balance Sheet to be produced at the Meeting.

118. The Directors shall produce to the shareholders assembled at such Ordinary Meeting the said Balance Sheet, applicable to the period immediately preceding

such Meeting, together with the Report of the Auditors thereon, as hereinbefore provided.

Book-keeper to allow inspection of the Accounts at the appointed times.

119. The Directors shall appoint a book-keeper to enter the Accounts aforesaid in books to be provided for the purpose ; and every such book-keeper shall permit any shareholder to inspect such books, and to take copies or extracts therefrom, at any reasonable time during the prescribed periods, and if no periods be prescribed during one fortnight before and one month after every Ordinary Meeting.

Previously to Declaration of Dividends a Scheme to be prepared.

120. Previously to every Ordinary Meeting at which a dividend is intended to be declared the Directors shall cause a scheme to be prepared, showing the profits, if any, of the Company for the period current since the preceding Ordinary Meeting at which a dividend was declared, and apportioning the same, or so much thereof as they may consider applicable to the purposes of dividend, among the shareholders, according to the shares held by them respectively, the amount paid thereon, and the periods during which the same may have been paid, and shall exhibit such scheme at such Ordinary Meeting, and at such Meeting a dividend may be declared according to such scheme.

For general remarks as to Profits available for Dividend *see* Chapter XIII.

Money borrowed for the purpose of completing a railway line is not payable out of profits, but debts incurred for rails, stations, and the like are payable out of profits.—*Coey v. London and Enniskillen Railway Co.*, 27 B. 263.

Dividends may not be paid out of borrowed capital, nor can interest on Debentures be charged to Capital Account.—*Bloxam v. Metropolitan Railway Co.*, 3 Ch. 337.

Dividend not to be made so as to reduce Capital.

121. The Company shall not make any dividend whereby their Capital Stock will be in any degree reduced : Provided always that the word " Dividend " shall not be construed to apply to a return of any portion of the Capital Stock, with the consent of all the Mortgagees and Bond Creditors of the Company, due

notice being given for that purpose at an Extraordinary Meeting to be convened for that object.

Compare Companies Act, 1862, Schedule I. (Table A), Art. (73): "No dividend shall be payable except out of the profits arising from the business of the Company."

Power to Directors to set apart a Fund for Contingencies.

122. Before apportioning the profits to be divided among the shareholders the Directors may, if they think fit, set aside thereout such sum as they may think proper to meet contingencies, or for enlarging, repairing, or improving the works connected with the Undertaking, or any part thereof, and may divide the balance only among the shareholders.

Dividend not to be paid unless all Calls paid.

123. No Dividends shall be paid in respect of any share until all calls then due in respect of that and every other share held by the person to whom such dividend may be payable shall have been paid.

The Companies Clauses Act, 1863.

(26 & 27 Vict., c. 118).

[28th July, 1863.]

Short Title.

1. This Act may be cited as "The Companies Clauses Act, 1863."

Power to Company to cancel forfeited Shares.

4. Where any share of the Capital of the Company is, after the passing of this Act, declared forfeited under and in pursuance of the provisions with respect to the forfeiture of shares for non-payment of calls contained in the Companies Clauses Consolidation Act, 1845, and the Companies Clauses Consolidation (Scotland) Act, 1845, respectively, and the forfeiture is confirmed by a meeting in accordance with the same provisions respectively, and notice of the forfeiture has been given, then and in every such case, if the Directors of the Company are unable to sell the share for a sum equal to the arrears of calls and interest and expenses due in respect thereof, the Company at any General Meeting held not less than two months after such notice is given may, in case payment of the

arrears of calls, interest, and expenses due in respect thereof is not made by the registered holder of the share before the meeting is held, resolve that the share instead of being sold shall be cancelled, and the share shall thereupon be cancelled accordingly.

Payment of Calls in arrear notwithstanding cancellation.

6. Where it is so resolved that any share shall be cancelled, the holder thereof shall from and after the passing of the resolution be precluded from all right and interest therein and in respect thereof; but the cancellation shall not affect the liability of the last registered holder of the share to pay to the Company all arrears of calls, interest, and expenses due in respect of the share at the time of the cancellation, or the power of the Company to enforce payment thereof by action or otherwise.

Value of forfeited Shares to be deducted from amount due in respect thereof.

7. Provided always, that if the Company enforces the payment of the arrears of calls, interest, and expenses under the last preceding provision, the value of the share at the time of the cancellation thereof shall be deducted from the amount so then due; provided also, that if payment of all arrears of calls, interest, and expenses is made before such meeting as aforesaid is held, the share shall revert to the person to whom it belonged at the time of forfeiture, and shall be re-entered on the Company's Register accordingly.

Company may cancel forfeited Shares with consent of holders.

8. Where any share is declared forfeited, or where any sum payable on any share remains unpaid, the Company, with the consent in writing of the registered holder of the share, and with the sanction of a General Meeting, may resolve that the share shall be cancelled, and immediately thereupon the share shall be cancelled, and all liabilities and rights with respect to the share shall thereupon be absolutely extinguished.

As to surrender of Shares.

9. The Company may from time to time accept, on such terms as they think fit, surrenders of any shares which have not been fully paid up.

No money to be paid for cancellation or surrender.

10. The Company shall not pay or refund to any shareholder any sum of money for or in respect of the cancellation or surrender of any share.

Power to create Shares in lieu of cancelled, forfeited, &c., Shares.

11. The Company may from time to time, in lieu of any shares that have been cancelled or surrendered, issue new shares of such amounts as will allow the same to be conveniently apportioned or disposed of according to the resolution of any Ordinary or Extraordinary Meeting of the Company, and may from time to time fix the amounts and times of payment of the calls on any such new shares, and dispose thereof on such terms and conditions as may be so resolved upon: Provided that the aggregate nominal amount of the new shares shall not exceed the aggregate nominal amount of the shares in lieu of which the new shares are issued, after deducting the amount actually paid up in respect of the shares cancelled or surrendered.

Regulations as to creation and issue of Ordinary Shares or new Ordinary Stock.

12. Where any Company, incorporated either before or after the passing of this Act for the purpose of carrying on any undertaking, is authorised by any special Act hereafter passed and incorporating this part of this Act, to raise any additional sum or sums by the issue of new ordinary shares, or by the issue of new ordinary stock, or (at the option of the Company) by either of those modes, then and in every such case the Company, with the sanction of such proportion of the votes of the shareholders and stockholders entitled to vote in that behalf at meetings of the Company, present (personally or by proxy) at a meeting of the Company specially convened for the purpose, as is prescribed in the special Act; and if no proportion is prescribed, then of three-fifths of such votes, may, for the purpose of raising the additional sum or sums, from time to time create and issue (according as the authority given by the special Act extends to shares only, or to stock only, or to both) such new ordinary shares, of such nominal amount, and subject to the payment of calls of such amounts and at such times as the Company thinks fit, or such new ordinary stock as the Company thinks fit.

Regulations as to creation and issue of new Preference Shares or new Preference Stock.

13. Where any such Company is authorised by any special Act hereafter passed and incorporating this part of this Act to raise any additional sum or sums by the issue of new Preference shares, or by the issue of new Preference

stock, or (at the option of the Company) by either of those modes, then and in every such case the Company, with the like sanction as aforesaid, may for the purpose of raising such additional sum or sums from time to time create and issue (according as the authority given by the special Act extends to shares only or to stock only, or to both) such new shares or new stock, either ordinary or preference, and either of one class and with like privileges, or of several classes and with different privileges, and of the same or different amounts, and respectively with any fixed, fluctuating, contingent, preferential, perpetual, terminable, deferred, or other dividend or interest, not exceeding the rate prescribed in the special Act; and if no rate is prescribed, then not exceeding the rate of five pounds per centum per annum, and subject (as to any such new shares) to the payment of calls of such amounts and at such times as the Company from time to time thinks fit.

Saving rights of Preference Shareholders.

Provided always that any preference assigned to any shares or stock so issued under the special Act shall not affect any guarantee or any preference or priority in the payment of dividend or interest on any shares or stock, that may have been granted by the Company under or confirmed by any previous Act, or that may be otherwise lawfully subsisting.

Preference Shares to be entitled to Dividends only out of the Profits of each Year.

14. The Preference Shares or Preference Stock shall be entitled to the preferential dividend, or interest assigned thereto, out of the profits of each year, in priority to the Ordinary Shares and Ordinary Stock of the Company; but if in any year ending on the day prescribed in the special Act, and if no day is prescribed, then on the thirty-first day of *December*, there are not profits available for the payment of the full amount of preferential dividend or interest for that year, no part of the deficiency shall be made good out of the profits of any subsequent year, or out of any other funds of the Company.

In cases not within these Sections it has been held that preference shareholders are entitled to have arrears of interest made up out of the

profits of subsequent years.—*Henry v. Great Northern Railway Co.*, 1 De G. & J. 606; *Corry v. Londonderry, &c., Railway Co.*, 29 B. 263; *Matthews v. Great Northern Railway Co.*, 28 L.J. Ch. 375.

Preference shareholders who have allowed the surplus profits of one year to be applied in payment of ordinary shareholders, instead of in payment of arrears due to them, are not prevented from claiming such arrears against the profits of future years.—*Matthews v. Great Northern Railway Co.*, 28 L.J. Ch. 375.

Regulations as to creation and issue of Debenture Stock.

22. Where any Company incorporated either before or after the passing of this Act for the purpose of carrying on any undertaking is authorised by any special Act hereafter passed, and incorporating this part of this Act, to create and issue Debenture Stock, then and in every such case the Company, with the sanction of such proportion of the votes of the shareholders and stockholders entitled to vote in that behalf at meetings of the Company, present (personally or by proxy) at a meeting of the Company specially convened for the purpose, as is prescribed in the special Act, and if no proportion is prescribed then of three-fifths of such votes, may from time to time raise all or any part of the money which for the time being they have raised, or are authorised to raise, on Mortgage or Bond, by the creation and issue, at such times, in such amounts and manner, on such terms, subject to such conditions, and with such rights and privileges as the Company thinks fit, of stock to be called Debenture Stock, instead of and to the same amount as the whole or any part of the money which may for the time being be owing by the Company on Mortgage or Bond, or which they may from time to time have power to raise on Mortgage or Bond, and may attach to the stock so created such fixed and perpetual preferential interest *[not exceeding the rate prescribed in the special Act, and if no rate is prescribed then not exceeding the rate of four pounds per centum per annum], payable half-yearly or otherwise, and commencing at once or at any future time or times, when and as the Debenture Stock is issued, or otherwise, as the Company thinks fit.

* Repealed by 30 & 31 Vict., c. 127, s. 24, and 38 & 39 Vict., c. 66.

For 30 & 31 Vict., c. 127, s. 24 (the Railway Companies Act, 1867), *see post*.

Debenture Stock to be a prior charge.

23. Debenture Stock, with the interest thereon, shall be a charge upon the undertaking of the Company prior to all shares or stock of the Company, and shall be transmissible and transferable in the same manner and according to the same regulations and provisions as other stock of the Company.

See the Railway Companies Act, 1867, Sec. 23.

Interest on Debenture Stock to be a primary Charge.

24. The interest on Debenture Stock shall have priority of payment over all dividends or interest on any shares or stock of the Company, whether ordinary or preference or guaranteed, and shall rank next to the interest payable on the Mortgages or Bonds for the time being of the Company legally granted before the creation of such stock; but the holders of Debenture Stock shall not, as among themselves, be entitled to any preference or priority.

See In re Burry Port, &c., Railway Co., 33 W.R. 741; 54 L.J. Ch. 710.

Debenture Stock to be registered.

28. The Company shall cause entries of the Debenture Stock from time to time created to be made in a Register to be kept for that purpose, wherein they shall enter the names and addresses of the several persons and corporations from time to time entitled to the Debenture Stock, with the respective amounts of the stock to which they are respectively entitled.

Application of money raised.

32. Money raised by Debenture Stock shall be applied exclusively either in paying off money due by the Company on Mortgage or Bond, or else for the purpose to which the same money would be applicable if it were raised on Mortgage or Bond instead of on Debenture Stock.

Separate Accounts of Debenture Stock

33. Separate and distinct Accounts shall be kept by the Company, showing how much money has been received for or on account of Debenture Stock, and how much money borrowed or owing on Mortgage or Bond, or which they have power so to borrow, has been paid off by Debenture Stock, or raised thereby, instead of being borrowed on Mortgage or Bond.

Borrowing Powers extinguished to extent of Debenture Stock.

34. The powers of borrowing and reborrowing by the Company shall, to the extent of the money raised by the issue of Debenture Stock, be extinguished.

Application of Sections 22 to 34 to Mortgage Preference Stock and Funded Debt.

35. The provisions of this part of the Act shall be deemed to apply to Mortgage Preference Stock, and to Funded Debt, as the case may require, in all respects as if Mortgage Preference Stock or Funded Debt were mentioned throughout this part of this Act wherever Debenture Stock is mentioned therein.

The Companies Clauses Act, 1869.

(32 & 33 Vict., c. 48.)

[2nd August, 1869.]

Whereas the Companies Clauses Act, 1863, has been amended in certain respects as regards Railway Companies, and it is expedient that such amendments should extend to other Companies :

Be it therefore enacted . . . . . as follows :

Amendment of Part III. of 26 & 27 Vict., c. 118, as to rate of interest on Debenture Stock.

1. Part III. [Sections 22 to 35] of the Companies Clauses Act, 1863, shall be read and have effect as if the following words, that is to say, "not exceeding the rate prescribed in the special Act, and if no rate is prescribed, then not exceeding the rate of four pounds per centum per annum," had not been inserted in Section 22 of that Act, and any special Act of a Company passed before the passing of this Act, prescribing any rate, shall be read and have effect as if no rate had been prescribed therein.

Restriction on rate of interest on Debenture Stock already authorised.

2. Provided, that any Debenture Stock, the creation whereof has been authorised by a Company, but which has not been issued before the passing of this Act, shall not be issued on any terms other than those whereon it might have been issued if this Act had not been passed, unless and until the issue thereof, on terms other than as aforesaid, is after the passing of this Act authorised by the Company in manner provided in Section 22 of the Companies Clauses Act, 1863.

Power to issue Debenture Stock, subject to Part III. of 26 & 27 Vict., c. 118.

3. Any Company having power to raise money on Mortgage or Bond by virtue of any Act of Parliament, but not having power to create and issue Debenture Stock, may create and issue Debenture Stock subject to the provisions of Part III. of the Companies Clauses Act, 1863 (relating to Debenture Stock), and Part III. of the said Act, as amended by this Act, shall be deemed to be incorporated with the special Act of every such Company.

Advances to meet Debentures falling due.

4. Money borrowed by a Company for the purpose of paying off and duly applied in paying off Bonds or Mortgages of the Company given or made under the statutory powers of the Company shall, so far as the same is so applied, be deemed money borrowed within and not in excess of such statutory powers.

Power to issue Shares or Stock at discount.

5. Section 21 of the Companies Clauses Act, 1863, shall, with respect to any Company to which it is applicable under the provisions of this or any other Act, be read and have effect as if the following words, that is to say, "but so that not less than the full nominal amount of any share or portion of stock be payable or paid in respect thereof," had not been inserted in that Section.

A Company governed by the Companies Clauses Consolidation Act, 1845, and the Acts amending it, may issue fully paid-up Original Stock at a discount, and for payment either in cash, or for land or labour or other consideration, subject to the liability of the Directors for issuing the Stock below its value without necessity.—*Webb v. Shropshire Railways Co.* [1893] 3 Ch. 307.

A Company governed by the same Acts may issue fully paid-up Original Shares at a sum less than their nominal amount, in the same manner as new shares can, under the authority of those Acts, be issued. —*Statham v. Brighton Marine Palace and Pier Co.* [1899] 1 Ch. 199.

Power to issue residue of original or other capital at discount.

6. Any shares forming part of the capital (whether original or additional) authorised to be raised by any special Act of a Company passed before the present session which have not been disposed of may be disposed of in manner provided by Part II. of the Companies Clauses Act, 1863, as amended by this Act, and that part, as so amended, shall be deemed incorporated with such special Act accordingly.

Restriction on issuing at discount Shares or Stock already authorised.

7. Provided that any shares, the creation whereof has been authorised by a Company, but which have not been issued before the passing of this Act, shall not be issued on any terms other than those whereon the same might have been issued if this Act had not been passed unless and until the issue thereof on terms other than as aforesaid is after the passing of this Act authorised by the Company in manner provided by Part II. of the Companies Clauses Act, 1863.

Act not to affect provisions as to Capital upon which the Dividend is limited.

8. Provided always, that this Act shall not be construed to alter or extend the provisions of any Act relating to share capital in respect of which the amount of profits to be divided is limited to a fixed rate per centum upon the paid-up capital of the Company.

Short Title.

9. This Act may be cited as "The Companies Clauses Act, 1869."

The Railways Construction Facilities Act, 1864.

(27 & 28 Vict., c. 121.)

[29th July, 1864.]

Short Title.

1. This Act may be cited as "The Railways Construction Facilities Act, 1864."

In what cases Company shall be incorporated.

24. When the Promoters are not a Company incorporated by special Act, or by previous Certificate under this Act, and are seven or more in number, a Company shall be incorporated by the Certificate, for the purposes thereof.

In others Company may be incorporated.

25. Where the Promoters are not a Company incorporated by special Act, or by previous Certificate under this Act, and are less than seven in number, a Company may be incorporated by the Certificate for the purposes thereof, if the Promoters so desire.

Power for Board of Trade to incorporate Company by Certificate.

26. Where the Certificate incorporates a Company, it shall contain proper provisions with apt terms for creating a body corporate, by an appropriate name, with perpetual succession and a common seal, and with power to take,

hold, and dispose of lands and other property, for the purposes and subject to the restrictions of the Certificate, and may confer on the Company power to borrow on mortgage, and all other usual or proper powers.

Incorporation of Companies Clauses Acts.

27. In every such case the Companies Clauses Acts shall be incorporated with the Certificate (which shall be deemed the special Act).

Restriction as to issue of Shares.

28. It shall not be lawful for any Company empowered by a Certificate under this Act to issue any share created under the authority of the Certificate, nor shall any such share vest in the person accepting the same, unless and until a sum not being less than one-fifth part of the amount of such share is paid up in respect thereof.

Restrictions on Company as to borrowing, &c.

29. Every Company, whether incorporated by special Act or by Certificate, empowered by a Certificate to borrow money, shall, as regards the money so authorised to be borrowed, be subject to the following restrictions; namely,

(1.) They shall not exercise the said powers of borrowing any money until the whole of the share capital authorised by the Certificate is subscribed for or taken, and until one-half thereof is actually paid up, and until they prove to the Justice who is to certify under Section 40 of the Companies Clauses Consolidation Act, 1845, or (in *Scotland*) to the Sheriff who is to certify under Section 42 of the Companies Clauses Consolidation (*Scotland*) Act, 1845, as the case may be, before he so certifies, that shares for the whole of the capital are issued and accepted, and that not less than one-fifth part of the amount of each separate share has been paid up on account thereof before or at the time of the issue or acceptance thereof, and that all such shares were taken in good faith, and are held by the subscribers or their assigns, those subscribers or their assigns being legally liable for the same (of which matters the Certificate of the Justice or Sheriff shall be sufficient evidence):

(2.) They shall not borrow a larger sum in the whole than one-third of the amount of the share capital authorised by the Certificate :

(3.) They shall not out of money raised under the Certificate by calls or borrowing pay interest or dividend to a shareholder on the amount of calls made on his shares, whether created under the Certificate or otherwise (but this provision shall not prevent them paying to a shareholder under the Certificate such interest on money advanced by him beyond the amount of calls actually made, as is allowed by the Companies Clauses Acts) :

(4.) They shall not out of money so raised pay or deposit any money that may be required to be paid or deposited in relation to any application to Parliament or the Board of Trade :

(5.) They shall apply every part of the money so raised only for purposes for which it is by the Certificate authorised to be applied.

Saving for General Acts, or Revision of Charges.

53. Nothing in the Certificate shall exempt the railway, or the Company, or persons to whom it belongs, from the provisions of any general Act of Parliament relating to railways, or to the better audit of the accounts of Railway Companies, passed before or after the issuing of the Certificate, or from any revision and alteration, under the authority of Parliament, of the maximum tolls and charges allowed to be taken under the Certificate.

Power to Promoters, being a Company, to raise additional Capital.

56. Where the Certificate is obtained by a previously existing Company incorporated by special Act or by Certificate, the Certificate may authorise the Company to raise, as capital, for the purposes of the Certificate, such additional sum of money as therein limited, by the issue of new shares or new stock, either ordinary or preference, or partly ordinary and partly preference, or partly in that mode and partly by borrowing on mortgage, at the option of the Company, or as may be prescribed in the Certificate, and with power to create and issue Debenture Stock.

In every such case the Companies Clauses Acts shall be incorporated with the Certificate.

In every such case the restrictions by this Act imposed on a Company when originally incorporated by Certificate, with respect to the exercise of their borrowing power and to the application of money raised under the Certificate by calls or borrowing, shall extend and apply to such previously existing Company in respect of such additional capital.

The Railway Companies Securities Act, 1866.

(29 & 30 Vict., c. 108).

[10th August, 1866.]

Short Title.

1. This Act may be cited as "The Railway Companies Securities Act, 1866."

Interpretation of Terms.

2. In this Act—

The Term "Railway" includes a Tramway authorised by Act of Parliament incorporating the Companies Clauses Consolidation Act, 1845, but not any other Tramway;

The Term "Railway Company" includes every Company authorised by Act of Parliament to raise any loan capital for the construction or working of a Railway, or for any purposes connected with the conveyance by such Company of traffic on a Railway either alone or in conjunction with other purposes;

The Term "Debenture Stock" includes Mortgage Preference Stock and Funded Debt, and any Stock or Shares representing Loan Capital of a Railway Company, by whatever name called.

Half-Years for purposes of Act.

4. Half-years shall, for the purposes of this Act, be deemed to end on the thirtieth day of *June* and the thirty-first day of *December;* and the first half-year to which this Act applies shall be that ending on the thirty-first day of *December*, One thousand eight hundred and

sixty-six ; but the Board of Trade, on the application of any Railway Company, may (by writing under the hand of one of their secretaries or assistant secretaries, which shall be registered by the Railway Company at the office of the said Registrar) appoint, with respect to that Company, other days for the ending of half-years (including the first).

Loan Capital Accounts to be made half-yearly.

5. Within fourteen days after the end of each half-year every Railway Company shall make an account of their Loan Capital authorised to be raised and actually raised up to the end of that half-year, specifying the particulars described in the First Schedule to this Act, Part I. (which Account for each half-year is in this Act referred to as the Loan Capital half-yearly Account).

Form of Half-yearly Account.

6. The Board of Trade may from time to time, by notice published in the *London*, *Edinburgh*, and *Dublin* Gazettes, prescribe the form in which the Loan Capital half-yearly Account is to be made.

The First Schedule.

Part 1.—Particulars to be Specified in Loan Capital Half-yearly Account.

A. Every half-yearly Account to show—

(1.) The Act or Acts of Parliament under the powers of which the Company have contracted any Mortgage or Bond Debt existing at the end of the half-year, or have issued any Debenture Stock then existing, or the Act or Acts of Parliament by or under which any Mortgage or Bond Debt or Debenture Stock of the Company then existing has been confirmed, and the Act or Acts of Parliament under which the Company have any subsisting power to contract any Mortgage or Bond Debt, or to issue any Debenture Stock (either on fulfilment of any condition or otherwise) ;

(2.) The amount or respective amounts of Mortgage or Bond Debt or Debenture Stock thereby authorised or confirmed ;

(3.) Whether or not by any such Act or Acts the obtaining of the certificate of a Justice or Sheriff for any purpose, or the obtaining of the assent of a Meeting of the Company, has been made a condition precedent to the exercise of the power thereby conferred of borrowing on Mortgage or Bond, or of creating and issuing Debenture Stock ;

(4.) The date at which such condition has been fulfilled ;

(5.) The amount or the aggregate amount, under the powers of such Act or Acts, actually borrowed up to the end of the half-year on Mortgage or Bond (distinguishing them), and then being an existing debt, and of Debenture Stock actually issued up to that time and then existing ;

(6.) The amount or the aggregate amount remaining to be borrowed.

B. The second and every subsequent half-yearly Account to show also—

(7.) The items described in paragraphs (2) and (5) of this part of the present Schedule for two consecutive half-years, and the increase or decrease of any of those items in the second of those half-years as compared with the first.

The Railway Companies Act, 1867.

(30 & 31 Vict., c. 127.)

[20th August, 1867.]

1. This Act may be cited as "The Railway Companies Act, 1867." Short Title.

23. All money borrowed or to be borrowed by a Company on Mortgage or Bond or Debenture Stock, under the provisions of any Act authorising the borrowing thereof, shall have priority against the Company, and the property from time to time of the Priority of Mortgages.

Company, over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act: Provided always, that this priority shall not affect any claim against the Company in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Consolidation Act, 1845, or the Lands Clauses Consolidation Acts Amendment Act, 1860, or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company by any person in pursuance of any Act relating to the Company which is entitled to rank in priority to, or *pari passu* with, the interest or dividends on the Mortgages, Bonds, and Debenture Stock.

As to the priorities of Debentures of different issues the Judgments of Jessel M.R., Baggallay L.J., and Lush L.J., in *Harrison v. Cornwall Minerals Railway Co.*, 18 Ch. D. 334, may be perused, but they are based on the private Acts of Parliament of the Defendant Company.

Power to issue Debenture Stock.

24. Any Company may create and issue Debenture Stock subject to the provisions of Part III. [Sections 22 to 35] of the Companies Clauses Act, 1863 (relating to Debenture Stock), and the said Part III. shall, with respect to any special Act of a Company incorporating that part, whether passed or to be passed, be read and have effect as if the following words, that is to say, "not exceeding the rate prescribed in the special Act, and if no rate is prescribed, then not exceeding the rate of four pounds per centum per annum," had not been inserted in Section 22 of that Act; and for the purposes of the present Section this Act shall be deemed a special Act passed incorporating that part; and any special Act of a Company passed before the passing of this Act, prescribing any rate, shall be read and have effect as if no rate had been prescribed therein.

Advances to meet Debentures falling due.

26. Money borrowed by a Company for the purpose of paying off, and duly applied in paying off, bonds or mortgages of the Company given or made under the statutory powers of the Company, shall, so far as the

same is so applied, be deemed money borrowed within and not in excess of such statutory powers.

Power to issue residue of original or other Capital at discount.

27. Section 21 of the Companies Clauses Act, 1863, shall, with respect to any special Act of a Company incorporating Part II. [Sections 12 to 21] of that Act, whether passed or to be passed, be read and have effect as if the following words, that is to say, "but so that not less than the full nominal amount of any share or portion of stock be payable or paid in respect thereof," had not been inserted in that section.

Audit of Railway Accounts.

30. No dividend shall be declared by a Company until the Auditors have certified that the half-yearly Accounts proposed to be issued contain a full and true statement of the financial condition of the Company, and that the dividend proposed to be declared on any shares is *bonâ fide* due thereon after charging the revenue of the half-year with all expenses which ought to be paid thereout in the judgment of the Auditors: but if the Directors differ from the judgment of the Auditors with respect to the payment of any such expenses out of the revenue of the half-year, such difference shall, if the Directors desire it, be stated in the Report to the shareholders, and the Company in General Meeting may decide thereon, subject to all the provisions of the law then existing, and such decision shall for the purposes of the dividend be final and binding; but if no such difference is stated, or if no decision is given on any such difference, the judgment of the Auditors shall be final and binding; and the Auditors may examine the books of the Company at all reasonable times, and may call for such further Accounts, and such vouchers, papers, and information, as they think fit, and the Directors and officers of the Company shall produce and give the same as far as they can, and the Auditors may refuse to certify as aforesaid until they have received the same; and the Auditors may at any time add to their Certificate, or issue to the shareholders, independently at the cost of the Company,

any statement respecting the financial condition and prospects of the Company which they think material for the information of the shareholders.

THE RAILWAY COMPANIES (SCOTLAND) ACT, 1867.
(30 & 31 Vict., c. 126.)
[20th August, 1867.]

Short Title. 1. This Act may be cited as "The Railway Companies (*Scotland*) Act, 1867."

Extent of Act. 2. Except as in this Act expressly otherwise provided, this Act shall extend to *Scotland* only.

Priority of Mortgages. 23. All money borrowed or to be borrowed by a Company on Mortgage, Debenture, or Bond, or Debenture Stock, under the provisions of any Act authorising the borrowing thereof, shall have priority against the Company, and the property from time to time of the Company, over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act: Provided always that this priority shall not affect any claim, right, or remedy against the Company in respect of any Rentcharge, annual Feu Duty, or Ground Annual granted or to be granted by them in pursuance of the Lands Clauses Consolidation (*Scotland*) Act, 1845, or the Lands Clauses Consolidation Acts Amendment Act, 1860, or in respect of any Rent or sum reserved by or payable under any lease granted or made to the Company by any person in pursuance of any Act relating to the Company which is entitled to rank in priority to, or *pari passu* with, the interest or dividends on the Mortgages, Debentures, Bonds, and Debenture Stock; nor shall anything hereinbefore contained affect any claim for land taken, used, or occupied by the Company for the purposes of the Railway, or injuriously affected by the construction thereof, or by the exercise of any powers conferred on the Company.

As to Audit of Railway Accounts. 30. No dividend shall be declared by a Company until the Auditors have certified that the half-yearly

Accounts proposed to be issued contain a full and true statement of the financial condition of the Company, and that the dividend proposed to be declared on any shares is *bonâ fide* due thereon after charging the revenue of the half-year with all expenses which ought to be paid thereout in the judgment of the Auditors; but if the Directors differ from the judgment of the Auditors with respect to the payment of any such expenses out of the income of the half-year, such difference shall, if the Directors desire it, be stated in the Report to the Shareholders, and the Company in General Meeting may decide thereon, subject to all the provisions of the Law then existing, and such decision shall for the purposes of dividend be final and binding; but if no such difference is stated, or if no decision is given on any such difference, the judgment of the Auditors shall be final and binding; and the Auditors may examine the books of the Company at all reasonable times, and may call for such further Accounts, and such vouchers, papers, and information as they think fit, and the Directors and Officers of the Company shall produce and give the same as far as they can, and the Auditors may refuse to certify as aforesaid until they have received the same; and the Auditors may at any time add to their Certificate, or issue to the shareholders independently, at the cost of the Company, any statement respecting the financial condition and prospects of the Company which they think material for the information of the Shareholders.

The Regulation of Railways Act, 1868.
(31 & 32 Vict., c. 119.)

[31st July, 1868.]

1. This Act may be cited as "The Regulation of Railways Act, 1868." Short Title.

2. In this Act— Interpretation of Terms.

The term "Railway" means the whole or any

portion of a Railway or Tramway, whether worked by steam or otherwise.

Uniform Accounts, &c., to be kept.

3. Every incorporated Company, seven days at least before each ordinary half-yearly Meeting held after the Thirty-first day of *December*, One thousand eight hundred and sixty-eight, shall prepare and print, according to the Forms contained in the First Schedule to this Act, a Statement of Accounts and Balance Sheet for the last preceding half-year, and the other Statements and certificates required by the same Schedule, and an estimate of the proposed expenditure out of capital for the next ensuing half-year, and such Statement of Accounts and Balance Sheet shall be the Statement of Accounts and Balance Sheet which are submitted to the Auditors of the Company. Every Company which makes default in complying with this section shall be liable to a penalty not exceeding five pounds for every day during which such default continues. The Board of Trade, with the consent of a Company, may alter the said forms as regards such Company for the purpose of adapting them to the circumstances of such Company, or of better carrying into effect the objects of this section.

Accounts, &c., to be signed, and printed Copies distributed.

4. Every Statement of Accounts, Balance Sheet, and Estimate of Expenditure, prepared as required by this Act, shall be signed by the Chairman or Deputy Chairman of the Directors and by the Accountant or other Officer in charge of the Accounts of the Company, and shall be preserved at the Company's principal office. A printed copy thereof shall be forwarded to the Board of Trade, and at all times after the date at which it is required to be printed be given, on application, to every person who holds any Ordinary or Preference Share or Stock in the Company, or any Mortgage, Debenture, or Debenture Stock of the Company.

Penalty for falsifying Accounts, &c.

5. If any Statement, Balance Sheet, Estimate, or Report which is required by this Act is false in any particular to the knowledge of any person who signs the

same, such person shall be liable, on conviction thereof on indictment to fine and imprisonment, or on summary conviction thereof to a penalty not exceeding fifty pounds.

Auditor not necessarily a Shareholder.

11. Whenever, after the passing of this Act, Section One hundred and two of the Companies Clauses Consolidation Act, 1845, is incorporated in a Certificate or special Act relating to a Railway Company, it shall be construed as if the words, "where no qualification shall be prescribed by the special Act every Auditor shall have at least one share in the undertaking," were omitted therefrom; and so much of every Certificate and special Act relating to a Railway Company, and in force at the passing of this Act, as incorporates that portion of the said Section, and so much of any special Act relating to a Railway Company, and so in force as contains a like provision, is hereby repealed.

Auditors of Company, and appointment of Auditor by Board of Trade.

12. With respect to the Auditors of the Company the following provisions shall have effect:

(1.) The Board of Trade may, upon application made in pursuance of a Resolution passed at a Meeting of the Directors or at a General Meeting of the Company, appoint an Auditor in addition to the Auditors of such Company, and it shall not be necessary for any such Auditor to be a shareholder in the Company;

(2.) The Company shall pay to such Auditor appointed by the Board of Trade such reasonable remuneration as the Board of Trade may prescribe;

(3.) The Auditor so appointed shall have the same duties and powers as the Auditors of the Company, and shall report to the Company;

(4.) Where, in consequence of such appointment of an Auditor or otherwise, there are three or more Auditors, the Company may declare a dividend if the majority of such Auditors certify in manner required by Section thirty of the Railway Companies Act, 1867, and the Railway Companies (*Scotland*) Act, 1867, respectively;

(5.) Where there is a difference of opinion among such

Auditors, the Auditor who so differs shall issue to the shareholders, at the cost of the Company, such Statement respecting the grounds on which he differs from his colleagues, and respecting the financial condition and prospects of the Company, as he thinks material for the information of the Shareholders.

Issue of Preferred and Deferred Ordinary Stock.

13. Any Company which, in the year immediately preceding, has paid a dividend on their Ordinary Stock of not less than Three Pounds *per Centum per Annum* may, pursuant to the Resolution of an Extraordinary General Meeting, divide their paid-up Ordinary Stock into two classes, to be and to be called the one Preferred Ordinary Stock, and the other Deferred Ordinary Stock, and issue the same subject and according to the following provisions, and with the following consequences (that is to say) :

(1.) Preferred and Deferred Ordinary Stock shall be issued only in substitution for equal amounts of paid-up Ordinary Stock, and by way of division of portions of Ordinary Stock into two equal parts ;

(6.) As between Preferred Ordinary Stock and Deferred Ordinary Stock, Preferred Ordinary Stock shall bear a fixed maximum dividend at the rate of Six *per Centum per Annum ;*

(7.) In respect of dividend to the extent of the maximum aforesaid, Preferred Ordinary Stock shall at the time of its creation, and at all times afterwards, have priority over Deferred Ordinary Stock created or to be created, and shall rank *pari passu* with the undivided Ordinary Stock and the Ordinary Shares of the Company created or to be created ; and in respect of dividend, Preferred Ordinary Stock shall at all times and to all intents rank after all Preference and Guaranteed Stock and Shares of the Company created or to be created ;

(8.) In each year after all holders of Preferred Ordinary Stock for the time being issued have received in full the maximum dividend aforesaid, all holders of

Deferred Ordinary Stock for the time being issued shall, in respect of all dividend exceeding that maximum paid by the Company in that year on Ordinary Stock and Shares, rank *pari passu* with the holders of undivided Ordinary Stock and of Ordinary Shares of the Company for the time being issued ;

(9.) If, nevertheless, in any year ending on the thirty-first day of *December*, there are not profits available for payment to all the holders of Preferred Ordinary Stock of the maximum dividend aforesaid, no part of the deficiency shall be made good out of the profits of any subsequent year, or out of any other funds of the Company.

Extension of Scope of Railway Companies' Powers Act, 1864.

38. The Railway Companies' Powers Act, 1864, shall take effect and apply in the following cases in the same manner as if they were specified in Section Three of that Act (that is to say) :

Where a Company desire to make new provisions, or to alter any of the provisions of their special Act, or of the Companies Clauses Consolidation Act, 1845, so far as it is incorporated therewith, with respect to all or any of the matters following ; namely,

(e.) The Appointment and Duties of Auditors.

The Railway and Canal Traffic Act, 1888.

(51 & 52 Vict., c. 25.)

[10th August, 1888.]

Short Title and construction.

1. This Act may be cited as the Railway and Canal Traffic Act, 1888.

This Act shall be construed as one with the Regulation of Railways Act, 1873, and the Acts amending it ; and those Acts and this Act may be cited together as the Railway and Canal Traffic Acts, 1873 and 1888.

36 & 37 Vict. c. 48.

Misapplication of a Railway Company's funds for acquisition of unauthorised interest in Canal.

42.—(1.) No Railway Company, or Director, or Officer of a Railway Company shall, without express statutory authority, apply or use or authorise or permit the application or use of any part of the Company's funds for the purpose of acquiring either in the name of the Railway Company, or of any Director or Officer of the Railway Company, or other person, any Canal interest, or of enabling any Director or Officer of the Railway Company, or other person, to purchase or acquire any Canal interest, or of guaranteeing or repaying to any Director or Officer of the Railway Company or other person who has purchased or acquired any Canal interest the sums of money expended or liability incurred by such Director, Officer, or person, in the purchase or acquisition of such Canal interest, or any part of such money or liability.

(2.) In the event of any contravention of the provisions of this Section, the Canal interest purchased in such contravention shall be forfeited to the Crown, and the Directors or Officers of the Company who so applied or used, or authorised or permitted such application or use of the Company's funds, shall be liable to repay to the Company the sums so applied or used and the value of the Canal interest so forfeited; and proceedings to compel such repayment may be taken by any Shareholder in the Company.

The Directors of a Railway Company incorporated by various Acts cannot legally apply any of the Railway capital in payment of the expenses of preparing, prosecuting or promoting a Bill in Parliament for purposes not authorised by the Acts of the Railway Company. —*Munt v. Shrewsbury and Chester Railway Company*, 20 L.J. Ch. 169.

The Regulation of Railways Act, 1889.
(52 & 53 Vict., c. 57).

[30th August, 1889.]

3. Whenever any Railway Company shall be ordered by the Board of Trade to provide any appliances, or execute any works, or incur any expenditure, under the provisions of this Act, which would properly be chargeable to capital

account, it shall be lawful for such Company to furnish to the Board of Trade an estimate of the cost of providing such appliances, executing such works, and carrying out such order generally, and thereupon the Board of Trade shall, upon the application of the Company, fix and determine the amount which would properly be capital expenditure, and the Company may from time to time issue Debentures or Debenture Stock in priority to or ranking *pari passu* with any existing Debentures or Debenture Stock of such Company bearing interest at a rate not exceeding five per cent. per annum to an amount not exceeding the sum so paid and determined, and any money raised under the provisions of this section shall be applied in carrying out such requirements of the Board of Trade, and to no other purpose whatsoever, and no other authority save the Certificate of the Board of Trade shall be requisite to authorise and validate the issue of such Debentures or Debenture Stock.

The Gasworks Clauses Act, 1847.

(10 Vict., c. 15.)

[23rd April, 1847.]

2. The expression "the Special Act," used in this Act, shall be construed to mean any Act which shall be hereafter passed authorising the construction of Gasworks, and with which this Act shall be so incorporated as aforesaid; . . . . . "the Undertaking" shall mean the Gasworks and the works connected therewith by the Special Act authorised to be constructed; and the expression "the Undertakers" shall mean the persons by the Special Act authorised to construct the Gasworks. "Special Act." "The Undertaking." "The Undertakers."

The term "the Special Act" includes the Public Health Act, 1875.

4. In citing this Act in other Acts of Parliament and in legal instruments it shall be enough to use the expression "The Gasworks Clauses Act, 1847." Short Title of the Act.

Profits of the Company limited.

30. The profits of the Undertaking to be divided amongst the Undertakers in any year shall not exceed the prescribed rate, or where no rate is prescribed, they shall not exceed the rate of ten pounds in the hundred by the year on the paid-up capital in the Undertaking, which in such case shall be deemed the prescribed rate, unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend which shall have fallen short of the said yearly rate.

The Undertakers may not pay the income tax in addition to the prescribed rate of dividend, they are liable to pay income tax on the entire profits when they exceed the prescribed rate.

The sum required to make up the deficiency for antecedent years may be taken from the profits of any year.—*Matthews v. Great Northern Railway Co.*, 28 L.J. Ch. 375.

As to arrears of dividend of a Gas Company, *see* also *Chamberlain v. The New Worcester Gaslight Co.*

If Profits exceed the Amount limited Excess to be invested and form a Reserved Fund.

31. If the clear profits of the Undertaking in any year amount to a larger sum than is sufficient, after making up the deficiency in the dividends of any previous year as aforesaid, to make a dividend at the prescribed rate, the excess beyond the sum necessary for such purpose shall from time to time be invested in Government or other Securities; and the dividends and interest arising from such Securities shall also be invested in the same or like Securities, in order that the same may accumulate at compound interest until the fund so formed amounts to the prescribed sum, or if no sum be prescribed, a sum equal to one-tenth of the nominal Capital of the Undertakers, which sum shall form a reserved fund to answer any deficiency which may at any time happen in the amount of divisible profits, or to meet any extraordinary claim or demand which may at any time arise against the Undertakers; and if such fund be at any time reduced, it may thereafter be again restored to the said sum, and so from time to time as often as such reduction shall happen.

Reserved Fund not to be resorted to unless to meet an extraordinary Claim.

32. Provided always, that no sum of money shall be taken from the said Fund for the purpose of meeting any extraordinary claim, unless it be first certified in *England* or *Ireland* by two Justices, and in *Scotland* by the Sheriff, that the sum so proposed to be taken is required for the purpose of meeting an extraordinary claim within the meaning of this or the Special Act.

When Fund amounts to prescribed Sum, Interest to be applied to Purposes of the Undertaking.

33. When such Fund shall, by accumulation or otherwise, amount to the prescribed sum, or one-tenth of the nominal Capital of the Company, as the case may be, the interest and dividends thereon shall no longer be invested, but shall be applied to any of the general purposes of the Undertaking to which the profits thereof are applicable.

If Profits are less than the prescribed Rate, a Sum may be taken from the Reserved Fund to supply Deficiency.

34. If in any year the profits of the Undertaking divisible amongst the Undertakers shall not amount to the prescribed rate, such a sum may be taken from the reserved fund as, with the actual divisible profits of such year, will enable the Undertakers to make a dividend of the amount aforesaid, and so from time to time as often as the occasion shall require.

Annual Account to be made up by Undertakers, and sent to the Clerk of the Peace in England or Ireland, or to the Sheriff Clerk in Scotland, and to be open to Inspection.

38. And with respect to the yearly Receipt and Expenditure of the Undertakers, be it enacted, that the Undertakers shall, in each year after they have begun to supply gas under the provisions of this or the special Act, cause an Account in abstract to be prepared of the total Receipts and Expenditure of all rents or funds levied under the powers of this or the special Act for the year preceding, under the several distinct heads of Receipt and Expenditure, with a Statement of the Balance of such Account, duly audited and certified by the Chairman of the Undertakers, and also by the Auditors thereof, if any; and a copy of such annual Account, if the Gasworks be situated in *England* or *Ireland*, shall be transmitted, free of charge, to the Clerk of the Peace for the County in which the Gasworks are situate, and if the Gasworks be situated in *Scotland*, such copy shall be transmitted, free of

charge as aforesaid, to the Sheriff Clerk of such County, and such transmission shall be made on or before the thirty-first day of *January* in each year, under a penalty of twenty pounds for each default; and a copy of such Account so sent to the said Clerk of the Peace or Sheriff Clerk shall be kept by him, and shall be open to inspection by all persons at all reasonable hours, on payment of one shilling for each inspection.

The Gasworks Clauses Act, 1871.

(34 & 35 Vict., c. 41.)

[13th July, 1871.]

Short Title. 2. This Act may be cited as "The Gasworks Clauses Act, 1871."

Accounts, &c. 35. The Undertakers shall fill up and forward to the Local Authority of every district within the limits of the special Act, on or before the twenty-fifth day of March in each year, an annual Statement of Accounts, made up to the thirty-first day of December then next preceding, as near as may be in the form and containing the particulars specified in Schedule B to this Act annexed.

The Undertakers shall keep copies of such annual Statement at their office, and sell the same to any applicant at a price not exceeding one shilling for each such copy.

The Board of Trade, with the consent of the Undertakers, may alter the said forms for the purpose of adapting them to the circumstances of the Undertaking, or of better carrying into effect the objects of this section.

In Provisional Orders in favour of Urban Sanitary Authorities under the Gas and Water Works Facilities Acts for gas supply, this Section in regard to Accounts is not incorporated, nor is Schedule B., containing forms of annual Accounts. Special provisions are substituted.

The Waterworks Clauses Act, 1847.

(10 & 11 Vict., c. 17.)

[23rd April, 1847.]

4. In citing this Act in other Acts of Parliament and in legal instruments, it shall be enough to use the expression "The Waterworks Clauses Act, 1847." Short Title of this Act.

The Waterworks Clauses Act, 1863, Section 1, prescribes that the two Acts may be cited together as "The Waterworks Clauses Acts, 1847 and 1863." There are not any clauses in the latter Act referring to Accounts or Auditors.

75. The Profits of the Undertaking to be divided among the Undertakers in any year shall not exceed the prescribed rate, or where no rate is prescribed, they shall not exceed the rate of ten pounds in the hundred by the year on the paid-up Capital in the Undertaking, which in such case shall be deemed the prescribed rate, unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend which shall have fallen short of the said yearly rate. Profits of the Company to be limited.

76. If the clear profits of the Undertaking in any year amount to a larger sum than is sufficient, after making up the deficiency in the dividends of any previous year as aforesaid, to make a dividend at the prescribed rate, the excess beyond the sum necessary for such purpose shall from time to time be invested in Government or other Securities, and the dividends and interest arising from such Securities shall also be invested in the same or like Securities, in order that the same may accumulate at compound interest until the fund so formed amounts to the prescribed sum, or, if no sum be prescribed, to a sum equal to one-tenth part of the nominal Capital of the Undertakers, which sum shall form a reserved fund to answer any deficiency which may at any time happen in the amount of divisible profits, or to meet any extraordinary claim or demand which may at any time arise against the Undertakers; and if such fund be at any time reduced, it may If Profits exceed the Amount limited Excess to be invested and form a Reserved Fund.

thereafter be again restored to the said sum, and so from time to time as often as such reduction shall happen.

Reserved Fund not to be resorted to unless to meet an extraordinary Claim.

77. Provided always, that no sum of money shall be taken from the said fund for the purpose of meeting any extraordinary claim, unless it be first certified, in *England* or *Ireland*, by two Justices, and in *Scotland* by the Sheriff, that the sum so proposed to be taken is required for the purpose of meeting any extraordinary claim within the meaning of this or the special Act.

When Fund amounts to prescribed Sum, Interest to be applied to Purposes of the Undertaking.

78. When such fund shall, by accumulation or otherwise, amount to the prescribed sum, or one-tenth part of the nominal capital, as the case may be, the interest and dividends thereon shall no longer be invested, but shall be applied to any of the general purposes of the Undertaking to which the profits thereof are applicable.

If Profits are less than the prescribed Rate, a Sum may be taken from Reserved Fund to supply Deficiency.

79. If in any year the profits of the Undertaking divisible amongst the Undertakers shall not amount to the prescribed rate, such a sum may be taken from the reserved fund as, with the actual divisible profits of such year, will enable the Undertakers to make a dividend of the amount aforesaid, and so from time to time as often as the occasion shall require.

Annual Account to be made up by Undertakers, and sent to the Clerk of the Peace in England or Ireland, or to the Sheriff Clerk in Scotland, and to be open to Inspection.

83. And with respect to the yearly Receipt and Expenditure of the Undertakers, be it enacted, that the Undertakers shall, in each year after they have begun to supply water under this or the special Act, cause an Account in abstract to be prepared of the whole Receipt and Expenditure of all rates or other moneys levied under the powers of this or the special Act for the year preceding, under the several distinct heads of Receipt and Expenditure, with a Statement of the Balance of such Account, duly audited and certified by the Chairman of the Undertakers, and also by the Auditors thereof, if any; and a copy of such annual Account shall be sent, free of charge,

to the Clerk of the Peace for the County in which the Waterworks are situated, if the Waterworks are situated in *England* or *Ireland*, and if the Waterworks are situated in *Scotland* to the Sheriff Clerk of such County, on or before the thirty-first day of *January* in each year.

The Metropolis Water Act, 1852.
(15 & 16 Vict., c. 84.)

[1st July, 1852.]

Account of Receipt and Expenditure of Rates, &c., to be prepared, and to be open to Inspection.

19. And with respect to the yearly Receipt and Expenditure of every Company, the Company shall in each year cause an Account in abstract to be prepared of the whole Receipt and Expenditure of all rates or other moneys levied under the powers of this Act, under the several distinct heads of Receipt and Expenditure, with a Statement of the Balance of such Account duly audited and certified by the Chairman of the Company, and also by the Auditors thereof, if any, and a copy of such annual Account shall be sent, free of charge, to the Town Clerk of the City of *London*, and to the Vestry Clerk of each Parish supplied with Water by each Company respectively not within the City of *London*, on or before the thirty-first day of *January* in each year.

Short Title.

28. In citing this Act in other Acts and in legal instruments it shall be enough to use the expression "The Metropolis Water Act, 1852."

The Metropolis Water Act, 1871.
(34 & 35 Vict., c. 113.)

[21st August, 1871.]

Short Title.

1. This Act may be cited for all purposes as "The Metropolis Water Act, 1871."

This and recited Act to be as one.

2. This Act and the Metropolis Water Act, 1852, as the same is amended by this Act, shall be read and construed together as one Act.

Interpretation of Terms.

3. In this Act,—

The expression "the Metropolis" shall mean the Metropolis as defined by the Metropolis Management Act, 1855;

The term "Company" shall mean and include any of the Companies following: that is to say,—

The Governor and Company of the New River brought from Chadwell and Amwell to London, commonly called "The New River Company";

The East London Waterworks;

The Southwark and Vauxhall Water Company;

The Company of Proprietors of the West Middlesex Waterworks Company;

The Company of Proprietors of Lambeth Waterworks;

The Governor and Company of Chelsea Waterworks;

The Grand Junction Waterworks Company;

The Company of Proprietors of the Kent Waterworks; and also any other corporation, company, board, commissioners, association, person, persons, or partnership, for the time being supplying water for domestic use within the limits of this Act.

Accounts, &c.

37. Every Company shall, on or before the thirty-first day of July in each year, fill up and forward to the Board of Trade, and to the Town Clerk of the City of London, and to the Metropolitan Board of Works, and to the Vestry Clerk of each parish within which water is supplied by each Company respectively not within the City of London, a Statement of Accounts, made up to the end of their financial year then last passed, in such form and containing such particulars as may from time to time be prescribed by the Board of Trade.

Auditor of Accounts.

38. There shall be an Auditor of the Accounts of the Companies, being a competent and impartial person,

from time to time appointed by and removable by the Board of Trade.

There shall be paid to such Auditor such remuneration by the Companies and in such proportions as such Board appoints.

Ascertainment of Capital of Companies.

39. The Auditor shall, with all practicable speed after the passing of this Act, investigate the Accounts of the Companies, and ascertain and certify the amounts of their capitals, distinguishing share from loan capital, and shall ascertain and certify the capital of each Company, and shall from time to time, as new capital shall be expended, in like manner ascertain and certify the amount of such new capital that has been *bonâ fide* expended for the purposes of the Undertaking.

Periodical Audit of Accounts.

40. The Auditor shall once in every half-year audit the Accounts of the Companies.

If he finds the Accounts correct he shall certify the same, but if in any instance he finds the Accounts of any Company incorrect in principle or in detail, he shall require such Company to correct such Accounts in such manner as he thinks right, and no future dividend shall in any case be declared by any Company until their Accounts are certified by the Auditor ; provided that the suspension of a dividend under this section shall not operate until after the expiration of nine months from the date of the audit.

Facilities for Auditor.

41. Each Company shall, during as well as subsequent to the close of that half-year to which the Accounts relate, give to the Auditor, his Clerks and Assistants, access to the books and documents of such Company, and shall, when required, furnish to him and them all vouchers and information requisite for the purposes of the audit, and shall afford to him and them all facilities for the proper execution of his and their duty ; and any Company making default in complying with any of the provisions of this section shall, for every such default, be liable to a penalty not exceeding ten pounds.

Arbitration between Auditor and Company.

42. If any Company think themselves aggrieved by any act or determination of the Auditor, the matter in difference shall be referred to the determination of an Arbitrator agreed on between such Company and the Auditor, or, in default of agreement, appointed, on the application of either party, by the Lord Chief Justice of the Court of Common Pleas ; and, subject to this provision, such Company shall observe and abide by the directions and determinations of the Auditor.

This Section formerly contained the words "and the reference shall be subject and according to the provisions of the Common Law Procedure Act, 1854, and the decision of the Arbitrator shall be final and conclusive." These words were repealed by the Statute Law Revision (No. 2) Act, 1893, and the Arbitration Act, 1889, is now applicable. Failing agreement the Court or a Judge appoints an Arbitrator.

Recovery and application of Penalties.

44. Every penalty incurred by any Company by reason of non-compliance with any of the provisions of this Act shall go and belong to the Metropolitan authority within the jurisdiction of which the same has been incurred, and may be sued for and recovered by such Metropolitan authority in any Court of competent jurisdiction for the recovery of any ordinary simple contract debt of the like amount, and shall be paid and applied as such Metropolitan authority shall from time to time direct.

Every such penalty shall be borne and paid (to the satisfaction of the Auditor appointed as in this Act provided) exclusively by and out of the divisible profits of the Company by whom the penalty is incurred, and, by way of reduction of dividend.

The Electric Lighting (Clauses) Act, 1899.

(62 & 63 Vict., c. 19.)

[9th August, 1899.]

Provisions in Schedule to be incorporated in Electric

1. The provisions contained in the Schedule to this Act shall be incorporated with and form part of every Provisional Order made by the Board of Trade after the commencement of this Act under the Electric Lighting

Acts, save so far as they are expressly varied or excepted by the Order, and shall, subject to any such variations or exceptions, apply, so far as applicable, to the undertaking authorised by the Order. Lighting Orders.

The said provisions shall also, with the necessary modifications, and in particular with the substitution of the words "special Act" for "special Order," be incorporated with any special Act, save so far as they are expressly varied or excepted thereby.

The expression "Electric Lighting Acts" means in this Act the Electric Lighting Acts, 1882 and 1888, and, so far as respects Scotland, the Electric Lighting Acts, 1882 and 1888, and the Electric Lighting (Scotland) Act, 1890. 45 & 46 Vict., c. 56. 51 & 52 Vict., c. 12. 53 & 54 Vict., c. 13.

The expression "Special Act" means in this Act any Act passed after the commencement of this Act authorising the supply of Electricity for any public or private purposes within any area.

2.—(1.) This Act may be cited as the Electric Lighting (Clauses) Act, 1899. Short Title.

Schedule.

3.—(1.) The Undertakers shall not purchase or acquire the Undertaking of or associate themselves with any Company or person supplying energy under any Licence, Provisional Order, or Special Act, unless the Undertakers are authorised by Parliament to do so. Undertakers not to purchase other undertakings.

6. The following provisions shall apply as to the audit of Accounts where the Undertakers are not a Local Authority:— Audit of Undertakers' Accounts.

(1.) The annual Statement of Accounts of the undertaking, before being published as provided by Section nine of the Electric Lighting Act, 1882, shall be examined and audited by such competent and impartial person as the Board of Trade appoint, and the remuneration of the Auditor shall be such 45 & 46 Vict., c. 56.

as the Board of Trade direct, and that remuneration and all expenses incurred by him in or about the execution of his duties, to such an amount as the Board of Trade approve, shall be paid by the Undertakers on demand, and shall be recoverable summarily as a civil debt.

(2.) The Undertakers shall give to the Auditor, his clerks and assistants, access to such of the books and documents relating to the undertaking as are necessary for the purposes of the audit, and shall when required furnish to him and them all vouchers and information requisite for that purpose, and shall afford to him and them all facilities for the proper execution of his and their duty.

(3.) The Board of Trade may make and vary regulations prescribing the times at and the mode in which the audit shall be made and conducted, or otherwise for the purpose of giving effect to the provisions of this Section.

(4.) Any Report made by the Auditor, or such portion thereof as the Board of Trade direct, shall be appended to the annual Statement of Accounts, and shall form part thereof for the purposes of the said Section nine.

As to Mortgages.

78. Nothing in the Special Order shall prevent the Undertakers, in a case where a Local Authority are not the Undertakers, from borrowing money on the security of mortgages of the undertaking, or shall make the consent or approval of the Board of Trade necessary to the validity or effect of any such mortgage.

Provided that every mortgage of the undertaking shall be deemed to comprise all purchase money which may be paid to the Undertakers in the event of any sale or transfer of the undertaking or any part thereof, under Section two of the Electric Lighting Act, 1888, or under the Special Order, and that any mortgage granted by the Undertakers shall not be a charge upon the undertaking, or any part thereof, in the event of the undertaking or that part being

sold or transferred as aforesaid, and that every mortgage deed granted by the Undertakers shall be endorsed with notice to that effect.

The Stannaries Act, 1869.

(32 & 33 Vict., c. 19.)

[24th June, 1869.]

1. This Act may be cited as "The Stannaries Act, 1869." Short Title.

2. In this Act— Interpretation of Terms.

The term "the Stannaries" means the Stannaries of Devon and Cornwall:

The term "Company" includes any persons or partnership body working a mine in the Stannaries:

The term "Purser" means the Purser for the time being of a Company, and if there is no Purser then the Secretary for the time being, or if there is no Secretary then the principal Agent for the time being of a Company:

The term "Cost Book" includes all books and papers relating to the business of a mine, which are for the time being kept by a Purser, or which, according to the custom of the Stannaries, or the directions of the Company, ought to be kept by him.

These interpretations are altered slightly in the Stannaries Act, 1887, Section 2, which *see*.

3. This Act extends only to mines within the Stannaries, and subject to the jurisdiction of the Court, or within the cognisance of the Vice-Warden, and nothing in this Act shall extend to Companies registered under any of the Joint Stock Companies Acts, except where such Companies are expressly mentioned or necessarily implied. Extent and application of Act.

9. The Purser of every Company shall, once at least in every four months, truly enter in the cost book of the Company Accounts showing the actual financial position of the Company at the end of the financial month of the Entry of Accounts.

Company last preceding the time of entry, including a statement of all credits, debts, and liabilities, and distinguishing in such Accounts the amount of calls paid and calls not paid, with accurate lists of all the Shareholders for the time being in the Company, with their respective addresses, corrected from time to time as occasion requires, and all other Accounts, documents, and things which the Purser is for the time being required to enter therein by the custom of the Stannaries, or by the directions of the Company; and after the passing of this Act all existing or future Companies having any rules or regulations touching the management of the Company or conduct of the business of any mine shall file a true copy of them at the office of the Registrar without payment of any fee; and such rules or regulations shall be subject to the inspection of all applicants at reasonable times; and if any Company shall neglect to file such rules or regulations as above required, then any shareholder in or creditor of any such Company may apply for an order of the Court to file such rules or regulations forthwith, which order shall be enforced by the process of the Court.

Audit and Call.

10. At any meeting of a Company with special notice the Accounts of the Company may be audited, and a call may be made.

Call for prospective Expenses.

11. A call may be made by a Company for the purpose of defraying the whole or any portion of the estimated expenses to be incurred at any time within three months after the date of the meeting at which the call is made.

Discount or Interest on Calls.

12. At the time of making a call, a Company may direct that discount not exceeding five per cent. shall be allowed to every shareholder on payment of the call at or within the time appointed for payment thereof, and may direct that interest at the rate of five pounds per centum per annum shall be charged on all amounts due on account of a call and remaining unpaid after one month from the time appointed for the payment thereof.

Notice on failure to pay Call.

16. If a shareholder fails to pay a call on the day appointed for payment thereof, the Company may at any

time thereafter, during such time as the call remains unpaid, serve a notice on him requiring him to pay such call, with or without interest and any expenses that may have accrued by reason of such non-payment, and stating to the effect that in the event of non-payment in accordance with the notice the share in respect of which such call was made will be liable to be forfeited.

Forfeiture on failure to pay.

17. If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter, before payment of all calls, interest, and expenses due in respect thereof has been made, be forfeited by a resolution of the Company to that effect passed at a meeting with special notice.

Sale of forfeited Shares.

18. Any share so forfeited shall be carried to an account to be called "The Account of Forfeited Shares," and shall be deemed to be the property of the Company, and may be disposed of in such manner as the Company thinks fit; and any shareholder may purchase any such share if sold.

Payment notwithstanding Forfeiture.

20. Any shareholder whose share has been forfeited shall, nevertheless, be liable to pay all calls, interest, and expenses payable on or in respect of the same at the time of forfeiture.

Disposal of relinquished Shares.

21. Where a share in a Company is relinquished, it shall be carried to an account to be called "The Account of Relinquished Shares," and shall be deemed to be the property of the Company, and may be disposed of as the Company thinks fit, and any Shareholder may purchase any such share if sold.

The Stannaries Act, 1887.

(50 & 51 Vict., c. 43.)

[16th September, 1887.]

Short Title.

1. This Act may be cited as "The Stannaries Act, 1887."

2. In this Act—

Interpretation.

The term "Company" means any persons or partnership body, Joint Stock Company, Company

constituted under the Companies Act, 1862, or any statutory modification thereof, and whether corporate or unincorporate, and whether limited or unlimited, engaged in or formed for working mines within the Stannaries.

The term "Purser" means the Purser for the time being of a Company, or if there is no Purser then the Secretary for the time being, or if there is no Secretary then the principal Agent or Manager for the time being of a Company.

The term "Cost Book" includes all books and papers relating to the business of a mine which are for the time being kept by a Purser, or which, according to law or the custom of the Stannaries, ought to be kept by him.

Mine Club Funds to be accounted for.

13.—(1.) After the commencement of this Act, any custom or rule of law to the contrary notwithstanding, all moneys deducted in any mine from the wages or earnings of or otherwise contributed by the miners for the purposes of a mine club, or accident, or sick or benefit fund, shall, unless a majority of the miners shall by resolution decide otherwise, be deemed to belong to the miners and not to the Company, and the said moneys, and any contributions added thereto by the shareholders, shall be placed to a separate account, and the details thereof, showing the amount received and the several payments thereout, and to whom made during each preceding sixteen weeks, shall be set out in the Balance Sheet to be presented to the shareholders at each Ordinary Meeting; and a copy of the same shall be posted in the miners' dry or changing sheds, and in the account house; and it shall be lawful for the miners in any mine, if they so please, to appoint any two of themselves to audit the said Mine Club Fund Accounts.

Accounts to be entered in Cost Book.

23. The Purser of every cost book mine shall, once at least every sixteen weeks, truly enter in the cost book of the mine Accounts showing the actual financial position of the Company at the end either of the financial month

of such Company last preceding that time, and including a statement of all credits, debts, and liabilities, and distinguishing in such Accounts the amounts of calls paid, and calls not paid, and also all other accounts, documents, and things that the Purser is required to enter therein by the custom of the Stanneries or by the direction of the Company.

Meetings to be held once every Sixteen Weeks.

25. The Purser of every cost book mine shall duly convene an Ordinary Meeting of the shareholders in such mine at least once every sixteen weeks, for the transaction of the ordinary business of the said mine, and at every such meeting the cost book of the said mine containing the Accounts and other matters required by this Act to be entered therein, together with a list showing the name and address of every shareholder from whom any call is in arrear and unpaid, and the amount of the calls unpaid by him, shall be laid before the meeting.

Accounts to be Printed.

26. The Accounts by the twenty-third Section of this Act directed to be entered in the cost book shall, after the same have been laid before a meeting of the shareholders in pursuance of the twenty-fifth Section, be printed, and a copy thereof sent to each shareholder in the Company, and also to the lessors of the mine.

The Life Assurance Companies Act, 1870.

(33 & 34 Vict., c. 61.)

[9th August, 1870.]

Short Title.

1. This Act may be cited as "The Life Assurance Companies Act, 1870."

Interpretation of Terms.

2. In this Act—

The term "Company" means any person or persons, corporate or unincorporate, not being registered under the Acts relating to Friendly Societies, who issue or are liable under policies of assurance upon human life within the United Kingdom, or who grant annuities upon human life within the United Kingdom.

The term "Financial year" means each period of

twelve months, at the end of which the balance of the Accounts of the Company is struck, or if no such balance is struck, then each period of twelve months ending with the thirty-first day of December.

Life Funds separate.

4. In the case of a Company established after the passing of this Act, transacting other business besides that of Life Assurance, a separate Account shall be kept of all receipts in respect of the life assurance and annuity contracts of the Company, and the said receipts shall be carried to and form a separate fund to be called the Life Assurance Fund of the Company, and such fund shall be as absolutely the security of the life policy and annuity holders as though it belonged to a Company carrying on no other business than that of Life Assurance, and shall not be liable for any contracts of the Company for which it would not have been liable had the business of the Company been only that of Life Assurance; and in respect to all existing Companies, the exemption of the Life Assurance Fund from liability for other obligations than to its life policy holders shall have reference only to the contracts entered into after the passing of this Act, unless by the constitution of the Company such exemption already exists: Provided always, that this section shall not apply to any contracts made by any existing Company by the terms of whose deed of settlement the whole of the profits of all the business are paid exclusively to the life policy holders, and on the face of which contracts the liability of the assured distinctly appears.

Statements to be made by Companies.

5. From and after the passing of this Act every Company shall, at the expiration of each financial year of such Company, prepare a statement of its Revenue Account for such year, and of its Balance Sheet at the close of such year, in the forms respectively contained in the first and second Schedules to this Act.

Statements by Company doing other

6. Every Company which, concurrently with the granting of policies of assurance or annuities on human

life, transacts any other kind of assurance or other business shall, at the expiration of each such financial year as aforesaid, prepare statements of its Revenue Account for such year, and of its Balance Sheet at the close of such year, in the forms respectively contained in the third and fourth Schedules of this Act. than Life Business.

7. Every Company shall, once in every five years if established after the passing of this Act, and once every ten years if established before the passing of this Act, or at such shorter intervals as may be prescribed by the instrument constituting the Company, or by its regulations or bye-laws, cause an investigation to be made into its financial condition by an Actuary, and shall cause an abstract of the report of such Actuary to be made in the form prescribed in the fifth Schedule to this Act. Actuarial Report and Abstract.

8. Every Company shall, within nine months after the date of each such investigation as aforesaid into its financial condition, prepare a statement of its life assurance and annuity business in the form contained in the sixth Schedule of this Act, each of such statements to be made up as at the date of the last investigation: Provided as follows: Statement of Life and Annuity Business.

(2.) If such investigation be made annually by any Company, such Company may prepare such statement at any time, so that it be made at least once in every three years.

The expression date of each such investigation in this section shall mean the date to which the Accounts of each Company are made up for the purposes of each such investigation.

9. The Board of Trade, upon the application of or with the consent of a Company, may alter the forms contained in the Schedules to this Act for the purpose of adapting them to the circumstances of such Company, or of better carrying into effect the objects of this Act. Forms may be Altered.

10. Every statement or abstract hereinbefore required to be made shall be signed by the Chairman and two Directors of the Company and by the principal officer Statements, &c., to be Signed and Printed and

Deposited with Board of Trade.

managing the Life Assurance business, and, if the Company has a Managing Director, by such Managing Director, and shall be printed; and the original, so signed as aforesaid, together with three printed copies thereof, shall be deposited at the Board of Trade within nine months of the dates respectively hereinbefore prescribed as the dates at which the same are to be prepared. And every annual statement so deposited after the next investigation shall be accompanied by a printed copy of the abstract required to be made by Section seven.

Copies of Statements to be given to Shareholders, &c.

11. A printed copy of the last deposited statement, abstract, or other document by this Act required to be printed, shall be forwarded by the Company, by post or otherwise, on application, to every shareholder and policy holder of the Company.

List of Shareholders.

12. Every Company which is not registered under the Companies Act, 1862, and which has not incorporated in its deed of settlement Section ten of the Companies Clauses Consolidation Act, 1845, shall keep a "Shareholders' Address Book," in accordance with the provisions of that section.

Statements in case of Amalgamation or Transfer.

15. When an amalgamation takes place between any Companies, or when the business of one Company is transferred to another Company, the combined Company or the purchasing Company, as the case may be, shall, within ten days from the date of the completion of the amalgamation or transfer, deposit with the Board of Trade certified copies of statements of the assets and liabilities of the Companies concerned in such amalgamation or transfer.

Penalty for falsifying Statements, &c.

19. If any statement, abstract, or other document required by this Act is false in any particular to the knowledge of any person who signs the same, such person shall be liable, on conviction thereof on indictment to fine and imprisonment, or on summary conviction thereof to a penalty not exceeding fifty pounds.

For Schedules to this Act, consisting of Revenue Accounts, Balance Sheet, &c., *see* Appendix.

The Building Societies Act, 1874.

(37 & 38 Vict., c. 42.)

[30th July, 1874.]

1. This Act may be cited as "The Building Societies Act, 1874." Short title.

2. This Act shall commence and take effect on the second day of November, one thousand eight hundred and seventy-four. Commencement of Act.

13. Any number of persons may establish a Society under this Act, either terminating or permanent, for the purpose of raising by the subscription of the Members a Stock or Fund for making advances to Members out of the funds of the Society, upon security of freehold, copyhold, or leasehold estate by way of mortgage; and any Society under this Act shall, so far as is necessary for the said purpose, have power to hold land, with the right of foreclosure, and may from time to time raise funds by the issue of shares of one or more denominations, either paid up in full or to be paid by periodical or other subscriptions, and with or without accumulating interest, and may repay such funds when no longer required for the purposes of the Society. Provided always that any land to which any such Society may become absolutely entitled by foreclosure, or by surrender, or other extinguishment of the right of redemption, shall, as soon afterwards as may be conveniently practicable, be sold or converted into money. Purpose for which Societies may be established.

The Auditor should at each audit inquire into the position of each property "in hand," and the reasons why it has not been disposed of. The Building Societies Act, 1894, requires a Schedule of such properties to be affixed to the Accounts presented to the members.

15. With respect to the borrowing of money by Societies under this Act, the following provisions shall have effect: Power to borrow Money.

(1.) Any Society under this Act may receive deposits or loans at interest, within the limit in this section provided, from the members or other persons, or from corporate bodies, Joint Stock Companies, or from any terminating Building

Society, to be applied to the purposes of the Society ;

(2.) In a permanent Society the total amount so received on deposit or loan and not repaid by the Society shall not at any time exceed two-thirds of the amount for the time being secured to the Society by mortgages from its members ;

(3.) In a terminating Society the total amount so received and not repaid may either be a sum not exceeding such two-thirds as aforesaid, or a sum not exceeding twelve months' subscriptions on the shares for the time being in force ;

(4.) Any Deposits with or Loans to a Society under this Act, made before the commencement of this Act in accordance with its certified Rules, are hereby declared to be valid and binding on the Society, but no further deposits or loans shall be received by such Society, except within the limits provided by this section ;

(5.) Every deposit book, or acknowledgment or Security of any kind given for a deposit or loan by a Society, shall have printed or written therein or thereon the whole of the fourteenth and fifteenth Sections of the present Act.

Matters to be set forth in the Rules.

16. The Rules of every Society hereafter established under this Act shall set forth :

(1.) The name of the Society and chief office or place of meeting for the business of the Society ;

(3.) The purposes to which the funds of the Society are to be applied, and the manner in which they are to be invested ;

(6.) The manner of appointing, remunerating, and removing the Board of Directors or Committee of Management, Auditors, and other Officers ;

(8.) Provision for an annual or more frequent audit of the Accounts and inspection by the Auditors of the Mortgages and other Securities belonging to the Society ;

(11.) Provision for the custody of the mortgage deeds and other securities belonging to the Society.

(12.) The powers and duties of the Board of Directors, or Committee of Management, and other Officers.

Investment of Surplus Funds.

25. Any Society under this Act may from time to time, as the Rules permit, invest any portion of the funds of the Society, not immediately required for its purposes, upon real or leasehold securities, or in the public funds, or in or upon any Parliamentary stock or securities, or in or upon any stock or securities payment of the interest on which is guaranteed by authority of Parliament, or in the case of terminating Societies with other Societies under this Act; and for the purpose of investments in the public funds or upon security of copyhold or customary estate, the Society, or the Board of Directors or Committee of Management thereof, may from time to time appoint and remove Trustees.

The powers of investment under this section have been extended by the Building Societies Act, 1894, Sec. 17, so as to include power to invest in or upon any security in which Trustees are for the time being authorised by law to invest.

Buildings for the purpose may be Purchased or Leased.

37. A Society under this Act may purchase, build, hire, or take upon lease any building for conducting its business, and may adapt and furnish the same, and may purchase or hold upon lease any land for the purpose only of erecting thereon a building for conducting the business of the Society, and may sell, exchange, or let such building, or any part thereof.

Societies shall make Annual Audits and Statements of the Funds to the Members.

40. The Secretary or other Officer of every Society under this Act shall, once in every year at least, prepare an Account of all the Receipts and Expenditure of the Society since the preceding statement, and a general Statement of its funds and effects, liabilities and assets, showing the amounts due to the holders of the various classes of shares respectively, to depositors and creditors for loans, and also the balance due or outstanding on their Mortgage Securities (not including prospective interest), and the amount invested in the funds or other Securities;

and every such Account and Statement shall be attested by the Auditors, to whom the mortgage deeds and other Securities belonging to the Society shall be produced, and such Account and Statement shall be countersigned by the Secretary or other Officer; and every member, depositor, and creditor for loans shall be entitled to receive from the Society a copy of such Account and Statement, and a copy thereof shall be sent to the Registrar within fourteen days after the Annual or other General Meeting at which it is presented, and another copy thereof shall be suspended in a conspicuous place in every office of the Society under this Act.

The Building Societies Act, 1894.

(57 & 58 Vict., c. 47.)

[25th August, 1894.]

Matters to be set forth in Rules.

1. The Rules of every Society under the Building Societies Acts established or substituting a new set of Rules for its existing Rules after the passing of this Act shall set forth—

(*a.*) The manner in which the Stock or Funds of the Society is or are to be raised ;

(*b.*) The terms upon which unadvanced subscription shares are to be issued ; the manner in which the contributions are to be paid to the Society, and withdrawn by the members, with tables, where applicable in the opinion of the Registrar, showing the amount due by the Society for principal and interest separately ;

(*c.*) The terms upon which paid-up shares, if any, are to be issued and withdrawn, with tables, where applicable in the opinion of the Registrar, showing the amount due by the Society for principal and interest separately ;

(*d.*) Whether preferential shares are to be issued, and, if so, within what limits ;

(*e.*) The manner in which advances are to be made and repaid ; the deductions, if any, for premiums, and the conditions upon which a borrower can redeem the amount due from him before the expiration of the period for which the advance was made, with tables, where applicable in the opinion of the Registrar, showing the amount due from the borrower after each stipulated payment ;

(*f.*) The manner in which losses are to be ascertained and provided for ;

(*h.*) Whether the Society intends to borrow money, and, if so, within what limits not exceeding those prescribed by the Building Societies Acts.

Annual Account and Statement, 37 & 38 Vict., c. 42.

2.—(1.) Every Annual Account and Statement under Section forty of the Building Societies Act, 1874, shall be made up to the end of the official year of the Society to which it relates, and shall be in such form and shall contain such particulars as the Chief Registrar of Friendly Societies may from time to time, with the approval of a Secretary of State, direct, either generally or with respect to any Society or class of Societies. The form of Annual Account and Statement prescribed for general use by the Chief Registrar under this section, and every alteration of that form, shall as soon as practicable be laid before each House of Parliament, and shall not come into operation until the expiration of forty days from the date at which it is so laid. Provided that every such Account and Statement shall set forth :

(*a.*) With respect to Mortgages to the Society upon each of which the present debt does not exceed five thousand pounds (not being Mortgages where the repayments are upwards of twelve months in arrear, or where the property has for upwards of twelve months been in possession of the Society), the number of all such Mortgages, and the aggregate amount owing thereon at the date of the

Account or Statement, such information being given separately in respect of each of the four following classes :

(i.) Where the debt does not exceed five hundred pounds :

(ii.) Where the debt exceeds five hundred pounds and does not exceed one thousand pounds :

(iii.) Where the debt exceeds one thousand pounds and does not exceed three thousand pounds :

(iv.) Where the debt exceeds three thousand pounds and does not exceed five thousand pounds ; and

(*b.*) With respect to any other Mortgage to the Society, the particulars shown by the appropriate tabular form in the First Schedule to this Act.

The Form prescribed by the Chief Registrar of Friendly Societies presented pursuant to this Act was ordered by the House of Commons to be printed on the 5th September, 1895, and will be found in the Appendix. Affixed to the Form is a Certificate for the Auditors to sign, but no authority was given by this section to the Registrar to issue this Certificate as part of his Form, and it may, therefore, be disregarded by Auditors. The form of Certificate is, however, a good one, and may usefully be adopted.

(2.) Every Auditor, in attesting any such Annual Account or Statement, shall either certify that it is correct, duly vouched, and in accordance with law, or specially report to the Society in what respect he finds it incorrect, unvouched, or not in accordance with law, and shall also certify that he has at that audit actually inspected the Mortgage deeds and other Securities belonging to the Society, and shall state the number of properties with respect to which deeds have been produced to and actually inspected by him.

(3.) A copy of every such Annual Account and Statement shall be sent to the Registrar within fourteen days after the Annual or other General Meeting at which it is presented, or within three months after the expiration of

the official year of the Society, whichever period expires first.

(4.) For the purposes of this section the expression "Official year" shall mean, in the case of any Society established after the passing of this Act, the year ending with the thirty-first day of December, and, in the case of any Society established before the passing of this Act: the year ending with the time up to which its Annual Account and Statement is made at the passing of this Act.

(5.) This Section shall not come into operation until the expiration of twelve months after the passing of this Act.

As the Act received the Royal assent on the 25th August, 1894, this Section came into operation on 26th August, 1895.

Auditors.

3. Notwithstanding anything in the Rules of any Society under the Building Societies Acts, one at least of the Auditors of the Society shall be a person who publicly carries on the business of an Accountant.

For definition of a person who publicly carries on the business of an Accountant *see* remarks in Chapter I., page 12.

Inspection of Books.

4.—(1.) The Registrar may, if he thinks fit, on the application of ten members of a Society under the Building Societies Acts, each of whom has been a member of the Society for not less than twelve months immediately preceding the date of the application, appoint an Accountant or Actuary to inspect the books of the Society, and to report thereon.

(2.) Provided as follows:—

(*a.*) The applicants shall deposit with the Registrar such sum as a security for the costs of the proposed inspection as the Registrar may require; and

(*b.*) All expenses of and incidental to any such inspection shall be defrayed by the applicants, or out of the funds of the Society, or by the members or officers, or former members or officers, of the Society in such proportions as the Registrar may direct.

(3.) A person appointed under this section shall have power to make copies of any books of the Society, and to take extracts therefrom at all reasonable hours, at the registered office of the Society, or at any place where the books are kept.

(4.) The Registrar shall communicate the results of any such inspection to the applicants and to the Society.

Power of Registrar on application to appoint Inspector or call Special Meeting.

5.—(1.) The Registrar may, on the application of one-tenth of the whole number of members of a Society under the Building Societies Acts, or of one hundred members in the case of a Society consisting of more than one thousand members, and with the consent of the Secretary of State, either :—

(*a.*) appoint an Inspector to examine into and report on the affairs of the Society ; or

(*b.*) call a special meeting of the Society.

(2.) Provided as follows :—

(*a.*) The application under this section shall be supported by such evidence as the Registrar may direct for the purpose of showing that the applicants have good reason for requiring the inspection to be made or the meeting to be called, and that they are not actuated by malicious motives in their application ; and

(*b.*) Such notice of the application shall be given to the Society as the Registrar may direct ; and

(*c.*) The Registrar shall require the applicants to give security for the costs of the proposed inspection or meeting before the Inspector is appointed or the meeting is called ; and

(*d.*) All expenses of and incidental to the inspection or meeting shall be defrayed by the applicants, or out of the funds of the Society, or by the members or officers, or former members or officers, of the Society, in such proportions as the Registrar may direct.

Prohibition of Advances

13.—(1.) A Society under the Building Societies Acts shall not advance money on the security of any freehold,

copyhold, or leasehold estate which is subject to a prior Mortgage, unless the prior Mortgage is in favour of the Society making the advance. on Second Mortgage.

(2.) Provided that this section shall not apply to any Society in Scotland or Ireland which is at the passing of this Act authorised by the rules to make advances upon second Mortgage.

14. In calculating the amount for the time being secured to a Society under the Building Societies Acts by Mortgages from its members for the purpose of ascertaining the limits of its power to receive deposits or loans at interest, the amount secured on properties the payments in respect of which were upwards of twelve months in arrear at the date of the Society's last preceding Annual Account and Statement, and the amount secured on properties of which the Society had been twelve months in possession at the date of such Account and Statement, shall be disregarded. Limits of Borrowing Power.

16.—(1.) A Society under the Building Societies Acts may— Deposits in and Investments through Savings Banks.

(*a.*) Deposit in a Savings Bank any money belonging to the Society, provided that the whole amount, exclusive of Government stock, credited by the Bank to the Society does not exceed three hundred pounds at any one time ; and

(*b.*) Invest in Government stock through a Savings Bank any money of the Society, provided that the whole amount of Government stock credited by the Bank to the Society does not exceed five hundred pounds stock at any one time.

(2.) In this section the expressions "Savings Bank" and "Goverment Stock" have respectively the same meaning as in the Savings Bank Act, 1893. 56 & 57 Vict., c. 69.

17. The powers of investment under Section twenty-five of the Building Societies Act, 1874, shall include power to invest in or upon any security in which Trustees are for the time being authorised by law to invest. Extension of Powers of Investment.

22. If any person wilfully makes, orders, or allows to False entries.

be made any false statement in any document required by the Building Societies Acts to be sent to the Registrar, or by erasure, omission, or otherwise wilfully falsifies any such document, he shall be liable on summary conviction to a fine not exceeding fifty pounds.

Gifts, &c., not to be accepted by Officials.

23. No Director, Secretary, Surveyor, Solicitor, or other Officer of a Society under the Building Societies Acts shall, in addition to the remuneration prescribed or authorised by the rules of the Society, receive from any other person any gift, bonus, commission, or benefit, for or in connection with any loan made by the Society, and any person paying or accepting any such gift, bonus, commission, or benefit shall be liable on summary conviction to a fine not exceeding fifty pounds, and, in default of payment, to be imprisoned with or without hard labour for any time not exceeding six months, and the person accepting any such gift, bonus, commission, or benefit, shall, as and when directed by the Court by whom he is convicted, pay over to the Society the amount or value of such gift, bonus, commission, or benefit, and in default of such payment shall be liable to be imprisoned with or without hard labour for any time not exceeding six months.

As to whether an Auditor is an Officer under this section, see remarks in Chapter I. and note to Industrial and Provident Societies Act, 1893, Sec. 50, *post*.

Short Title and construction.
37 & 38 Vict., c. 42.
38 & 39 Vict., c. 9.
40 & 41 Vict., c. 63.
47 & 48 Vict., c. 41.

29. This Act may be cited as "The Building Societies Act, 1894," and shall be construed as one with the Building Societies Act, 1874, the Building Societies Act, 1875, the Building Societies Act, 1877, and the Building Societies Act, 1884, and those Acts and this Act are in this Act referred to and may be cited collectively as "The Building Societies Acts."

Commencement of Act.

30. This Act shall, except as otherwise expressed, come into operation on the first day of January one thousand eight hundred and ninety-five.

The Friendly Societies Act, 1896.

(59 & 60 Vict., c. 25.)

[7th August, 1896.]

Contributions from one Society to another.

22.—(1.) A Registered Society or Branch may contribute to the funds and take part by delegates or otherwise in the government of any other Registered Society or Registered Branch of a Society, as provided in the Rules of that first-named Society or Branch, without becoming a Branch under this Act of that other Society or Branch.

(2.) This Section shall, in respect of contributing to the funds and taking part in the government of a Medical Society, that is to say, a Society for the purpose of relief in sickness by providing medical attendance and medicine, extend to any Registered Trade Union or Branch of a Registered Trade Union.

Appointment of Trustees.

25.—(1.) Every Registered Society and Branch shall have one or more Trustees.

(4.) The same person shall not be a Secretary or Treasurer of a Registered Society or Branch, and a Trustee of that Society or Branch.

Audit.

26.—(1.) Every Registered Society and Branch shall once at least in every year submit its Accounts for audit either to one of the Public Auditors appointed as in this Act mentioned, or to two or more persons appointed as the Rules of the Society or Branch provide.

(2.) The Auditors shall have access to all the Books and Accounts of the Society or Branch, and shall examine the Annual Return mentioned in this Act, and verify the Annual Return with the Accounts and Vouchers relating thereto, and shall either sign the Annual Return as found by them to be correct, duly vouched, and in accordance with law, or specially report to the Society or Branch in what respects they find it incorrect, unvouched, or not in accordance with law.

Annual Returns.

27.—(1.) Every Registered Society and Branch shall, once in every year, not later than the thirty-first day of May, send to the Registrar a Return (in this Act called the

Annual Return) of the receipts and expenditure, funds, and effects of the Society or Branch as audited.

(2.) The Annual Return must—

(*a.*) Show separately the expenditure in respect of the several objects of the Society or Branch ; and

(*b.*) Be made out to the thirty-first day of December then last inclusively ; and

(*c.*) State whether the audit has been conducted by a Public Auditor appointed as by this Act provided, and by whom, and, if by persons other than a Public Auditor, state the name, address, and calling or profession of every such person, and the manner in which, and the authority under which, he is appointed.

(3.) The Society or Branch shall, together with the Annual Return, send a copy of any special report of the Auditors.

(4.) In the case of a Branch the Annual Return shall be sent to the Registrar through an officer appointed in that behalf by the Society of which the Branch forms part.

Quinquennial Valuation.

28.—(1.) Every Registered Society and Branch shall, except as in this Section provided, once at least in every five years either—

(*a.*) Cause its assets and liabilities to be valued by a valuer to be appointed by the Society or Branch and send to the Registrar a Report on the condition of the Society or Branch ; or

(*b.*) Send to the Registrar a return of the benefits assured and contributions receivable from all the members of the Society or Branch, and of all its funds and effects, debts and credits, accompanied by such evidence in support thereof as the Chief Registrar prescribes.

Copy of last Balance Sheet.

29. Every Registered Society and Branch shall keep a copy of the last Annual Balance Sheet, and of the last Quinquennial Valuation, together with any special report of the Auditors, always hung up in a conspicuous place at the Registered Office of the Society or Branch.

Public Auditors and Valuers.

30.—(1.) For the purpose of audits and valuations to be made under this Act the Treasury may appoint Public Auditors and Valuers, and may determine the rates of remuneration to be paid by Societies and Branches for the services of those Auditors and Valuers; but the employment of those Auditors and Valuers shall not be compulsory.

(2.) The Treasury may, out of money to be provided by Parliament, pay to the Public Auditors and Valuers such remuneration (if any) as the Treasury may allow.

Subscriptions to Hospitals.

37. A Registered Society or Branch may subscribe out of its funds to any hospital, infirmary, charitable or provident institution, any annual or other sum which may be necessary to secure to members of the Society or Branch and their families the benefits of the hospital, infirmary, or other institution, according to its rules.

Right to supply of copies of the Rules.

38. Every Registered Society and Branch shall deliver to every person on demand, on payment of a sum not exceeding one shilling, a copy of the Rules of the Society or Branch.

Right to supply of copies of Annual Return.

39. Every Registered Society and Branch shall supply gratuitously to every member or person interested in its funds, on his application, either

(*a*) a copy of the last Annual Return of the Society or Branch; or

(*b*) a Balance Sheet or other document duly audited containing the same particulars as to the receipts and expenditure, funds and effects, of the Society or Branch as are contained in the Annual Return.

Inspection of Books by Members.

40. A member or person having an interest in the funds of a Registered Society or Branch may inspect the books at all reasonable hours at the registered office of the Society or Branch, or at any place where the books are kept, except that the member or person shall not, unless he is an officer of the Society or Branch, or is specially authorised by a resolution of the Society or Branch to do so, have the right to inspect the Loan Account of any other member without the written consent of that member.

Investment of Funds.

44.—(1.) The Trustees of a Registered Society or Branch may, with the consent of the committee or of a majority of the members present and entitled to vote in general meeting, invest the funds of the Society or Branch, or any part thereof, to any amount in any of the following ways :—

(*a*) in the Post Office Savings Bank, or in any Savings Bank certified under the Trustee Savings Bank Act, 1863 ; or

26 & 27 Vict., c. 87.

(*b*) in the public funds ; or

(*c*) with the National Debt Commissioners as in this Act provided ; or

(*d*) in the purchase of land, or in the erection or alteration of offices or other buildings thereon ; or

(*e*) upon any other security expressly directed by the rules of the Society or Branch, not being personal security, except as in this Act authorised with respect to loans.

(2.) The rules of a Society with Branches, and of any Branch thereof, may provide for the investment of funds of the Society or of that Branch by the Trustees of any Branch, or by the Trustees of the Society, and the consent required for any such investment shall be the consent of the committee, or of such majority as aforesaid of the Society or Branch by whom the funds are invested.

Loans to Assured Members.

45.—(1.) A Registered Society and, subject to the rules of the Society, a registered Branch may advance to a member of at least one full year's standing any sum not exceeding one-half of the amount of an assurance on his life, on the written security of himself and two satisfactory sureties for repayment.

(2.) The amount so advanced, with all interest thereon, may be deducted from the sum assured, without prejudice in the meantime to the operation of the security.

Loans out of separate Loan Fund.

46. A Registered Society may, out of any separate loan fund to be formed by contributions or deposits of its members, make loans to members on their personal security, with or without sureties, as may be provided by the rules, subject to the following restrictions :—

(*a*) a loan shall not at any time be made out of money contributed for the other purposes of the Society :

(*b*) a member shall not be capable of holding any interest in the loan fund exceeding two hundred pounds :

(*c*) a Society shall not make any loan to a member on personal security beyond the amount fixed by the rules, or make any loan which, together with any money owing by a member to the Society, exceeds fifty pounds :

(*d*) a Society shall not hold at any one time on deposit from its members any money beyond the amount fixed by the rules, and the amount so fixed shall not exceed two-thirds of the total sums owing to the Society by the members who have borrowed from the Loan Fund.

Holding of Land.

47.—(1.) A Registered Society or Branch may (if the Rules thereof so provide) hold, purchase, or take on lease in the names of the Trustees of the Society or Branch any land, and may sell, exchange, mortgage, lease or build upon that land (with power to alter and pull down buildings and again rebuild), and a purchaser, assignee, mortgagee, or tenant shall not be bound to inquire as to the authority for any sale, exchange, mortgage, or lease by the Trustees, and the receipt of the Trustees shall be a discharge for all sums of money arising from or in connection with the sale, exchange, mortgage, or lease.

(2.) A Branch of a Registered Society need not for the purposes of this Section be separately registered.

(3). Nothing in this Section shall authorise a Benevolent Society to hold land exceeding one acre in extent.

Investments with the National Debt Commissioners.

52.—(1.) A Registered Society or Branch may pay to the account of the National Debt Commissioners at the Bank of England or the Bank of Ireland, as the case may require, any sum of money not less than fifty pounds upon a declaration of the Trustees of the Society or Branch, or any two of them, that the money belongs exclusively to the Society or Branch.

(5.) A Society or Branch so investing money with the Commissioners shall be entitled to a receipt entitling to interest at the following rates :—

To a Friendly Society or Branch legally established before the twenty-eighth of July one thousand eight hundred and twenty-eight, which had invested funds with the Commissioners before the twenty-third of July one thousand eight hundred and fifty-five, a rate of interest in respect of any assurance made before the fifteenth of August one thousand eight hundred and fifty of - - - -	Threepence per centum per diem.
To a Friendly Society or Branch legally established between the twenty-eighth of July one thousand eight hundred and twenty-eight and the fifteenth of August one thousand eight hundred and fifty, which had invested funds with the Commissioners before the twenty-third of July one thousand eight hundred and fifty-five, a rate of interest in respect of any assurance made before the fifteenth of August one thousand eight hundred and fifty of - - - -	Twopence halfpenny per centum per diem.
To a Friendly Society or Branch legally established before the twenty-eighth of June, one thousand eight hundred and eighty-eight, which had invested funds with the Commissioners before the first day of January, one thousand eight hundred and ninety-six, a rate of interest in respect of any assurance made on or before the said twenty-eighth day of June of -	Twopence per centum per diem.

To a Society or Branch in respect of any investment with the Commissioners, other than as hereinbefore in this Section mentioned, a rate of interest of - - - - -	Two pounds fifteen shillings per centum per annum.

(6.) A Society or Branch withdrawing money so invested with the Commissioners shall not be entitled to make any further deposit without their consent.

Accounts of Officers.

55.—(1.) Every Officer of a Registered Society or Branch having receipt or charge of money shall, at such times as by the rules of the Society or Branch he should render account, or upon demand made, or notice in writing given or left at his last or usual place of residence, give in his Account as may be required by the Society or Branch, or by the Trustees or Committee thereof, to be examined and allowed or disallowed by them, and shall, on the like demand or notice, pay over all sums of money and deliver all property in his hands or custody to such person as the Society or Branch, or the Committee or the Trustees, appoint.

(2.) In case of any neglect or refusal to deliver the Account, or to pay over the sums of money, or to deliver the property in manner aforesaid, the Trustees or authorised Officers of the Society or Branch may sue upon the bond or security before mentioned, or may apply to the County Court or to a Court of Summary Jurisdiction, and the order of either such Court shall be final and conclusive.

Fine for falsification.

88. If any person wilfully makes, orders, or allows to be made, any entry, erasure in, or omission from a Balance Sheet of a Registered Society or Branch, or a return or document required to be sent, produced, or delivered for the purposes of this Act, with intent to falsify the same, or to evade any of the provisions of this Act, he shall be liable to a fine not exceeding fifty pounds.

Short Title.

109. This Act may be cited as "The Friendly Societies Act, 1896.

The First Schedule.

MATTERS TO BE PROVIDED FOR BY THE RULES OF SOCIETIES REGISTERED UNDER THIS ACT.

1. The name and place of office of the Society.

2. The whole of the objects for which the Society is to be established, the purposes for which the funds thereof shall be applicable, the terms of admission of members, the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member, and the consequences of nonpayment of any subscription or fine.

3. The mode of holding meetings and right of voting, and the manner of making, altering, or rescinding rules.

4. The appointment and removal of a Committee of Management (by whatever name),of a Treasurer and other officers, and of Trustees, and in the case of a Society with Branches, the composition and powers of the central body, and the conditions under which a Branch may secede from the Society.

5. The investment of the Funds, the keeping of the Accounts, and the Audit of the same once a year at least.

6. Annual Returns to the Registrar of the Receipts, Funds, Effects, and Expenditure, and Numbers of Members, of the Society.

7. The Inspection of the Books of the Society by every person having an interest in the Funds of the Society.

8. The manner in which disputes shall be settled.

9. In case of dividing Societies, a provision for meeting all claims upon the Society existing at the time of division before any such division takes place.

And also in the case of Friendly and Cattle Insurance Societies :—

10. The keeping separate Accounts of all moneys received or paid on account of every particular fund or benefit assured for which a separate table of contributions payable shall have been adopted, and the keeping separate

account of the expenses of Management, and of all Contributions on account thereof.

11. (Except as to Cattle Insurance Societies) a Valuation once at least in every five years of the Assets and Liabilities of the Society, including the estimated risks and contributions.

The Societies' Borrowing Powers Act, 1898.
(61 & 62 Vict., c. 15.)

[25th July, 1898.]

Provision for Borrowing.

1. A Society may by rule provide that it may receive deposits and borrow money at interest from its members, or from other persons, and upon the registry of such rule the same shall be valid.

Interpretation. 59 & 60 Vict., c. 25.

2. The expression "Society" in this Act means a specially authorised Society registered, or seeking registration, under the Friendly Societies Act, 1896, having for its object the creation of funds to be lent out to the members of the Society or for their benefit, and having in its rules provisions—

(*a*) that no part of its funds shall be divided by way of profit, bonus, dividend, or otherwise among its members;

(*b*) that all money lent to members shall be applied to such purpose as the Society or its Committee of Management may approve.

Short Title.

3. This Act shall be cited for all purposes as "The Societies' Borrowing Powers Act, 1898."

The Collecting Societies and Industrial Assurance Companies Act, 1896.
(59 & 60 Vict., c. 26.)

[7th August, 1896.]

1. This Act shall apply to every such—

Application of Act.

(*a.*) Friendly Society or Branch, whether registered or unregistered (in this Act referred to as a Collecting Society); and

(*b.*) Person or body of persons, whether corporate or unincorporate, granting Assurances on any one life for a less sum than twenty pounds (in this Act referred to as an Industrial Assurance Company),

as receives contributions or premiums by means of collectors at a greater distance than ten miles from the registered office or principal place of business of the Society or Company, and, in the case of an Industrial Assurance Company, at less periodical intervals than two months:

Provided that nothing in this Act shall, except as expressly provided thereby, apply to any Assurance with an Industrial Assurance Company the premiums in respect of which are receivable at greater periodical intervals than two months.

General Meetings.

5.—(1.) At least one General Meeting of every Collecting Society and Industrial Assurance Company shall be held in every year.

(2.) Except where the day, hour, and place of an Annual or other periodical Meeting is fixed by the Rules, notice of every General Meeting shall either be given by the Society or Company to the members by advertisement to be published at least twice in two or more of the newspapers in general circulation in every county where the Society or Company carries on business, or be served upon every member.

Balance Sheets and Annual Returns.

6.—(1.) A copy of every Balance Sheet of a Collecting Society shall, during the seven days next preceding the Meeting at which the Balance Sheet is to be presented, be kept open by the Society for inspection at every office at which the business of the Society is carried on, and shall be delivered or sent by post to every member on demand.

(2.) The Annual Returns required to be sent to the Registrar under the Friendly Societies Act, 1896, shall, in the case of a Collecting Society, be certified by some person not an officer of the Society (otherwise than an Auditor thereof) carrying on publicly the business of an Accountant, and if not so certified shall be deemed not to have been made.

15. If any person wilfully makes, orders, or allows to be made any entry, erasure in, or omission from a contribution or collecting book, with intent to falsify that book, or to evade any of the provisions of this Act, he shall be liable to a fine not exceeding fifty pounds recoverable at the suit of the Chief or any Assistant Registrar, or of any person aggrieved. Fine for falsification.

20. This Act may be cited as "The Collecting Societies and Industrial Assurance Companies Act, 1896." Short Title and construction.

THE INDUSTRIAL AND PROVIDENT SOCIETIES ACT, 1893.

(56 & 57 Vict., c. 39.)

[12th September, 1893.]

1. This Act may be cited as "The Industrial and Provident Societies Act, 1893." Short Title of Act.

2. This Act shall come into operation on the first day of January next after the passing thereof, and shall extend to Great Britain and Ireland and the Channel Islands. Extent of Act.

3. Every incorporated Society now existing which has been registered or certified under any Act relating to Industrial and Provident Societies shall be deemed to be a Society registered under this Act, and its Rules shall, so far as the same are not contrary to any express provision of this Act, continue in force until altered or rescinded. Existing Societies.

10.—(1.) The Rules of a Society registered under this Act shall contain provisions in respect of the several matters mentioned in the second Schedule to this Act. Rules and Amendments.

13.—(1.) Every registered Society shall once at least in every year submit its Accounts for audit either to one of the Public Auditors appointed as in this Act mentioned, or to two or more persons appointed as the Rules of the Society provide. Audit.

(2.) The Auditors shall have access to all the books, deeds, documents, and Accounts of the Society, and shall

examine the Balance Sheets showing the receipts and expenditure, funds and effects of the Society, and verify the same with the books, deeds, documents, Accounts and vouchers relating thereto, and shall either sign the same as found by them to be correct, duly vouched, and in accordance with law, or specially report to the Society in what respects they find them incorrect, unvouched, or not in accordance with law.

Annual Returns.

14.—(1) Every registered Society shall once in every year, not later than the thirty-first day of March, send to the Registrar an Annual Return of the Receipts and Expenditure, Funds and effects of the Society as audited.

(2.) The Annual Return—

(*a.*) shall be signed by the Auditor or Auditors ; and

(*b.*) shall show separately the expenditure in respect of the several objects of the Society ; and

(*c.*) shall be made out from the date of its registration or last Annual Return to that of its last published Balance Sheet provided that the last-named date is not more than one month before or after the thirty-first of December then last, or otherwise to the said day of December inclusive ; and

(*d.*) shall state whether the audit has been conducted by a Public Auditor appointed as by this Act is provided, and by whom, and, if by any persons other than a Public Auditor, shall state the name, address, and calling or profession of every such person, and the manner in which, and the authority under which, he is appointed.

The Society shall, together with the Annual Return, send a copy of the Report of the Auditors, or, if more than one such Report has been made during the period included in the Return, a copy of each of such Reports.

Supply Copies of Annual Returns.

15. Every registered Society shall supply gratuitously to every member or person interested in the funds of the Society, on his application, a copy of the last Annual Return of the Society for the time being.

16. Every registered Society shall keep a copy of the last Balance Sheet for the time being, together with the Report of the Auditors, always hung up in a conspicuous place at the registered office of the Society. Copy of last Balance Sheet.

19.—(1.) No registered Society which has any withdrawable share Capital shall carry on the business of banking. Conditions of Banking by Societies.

(2.) Every registered Society which carries on the business of banking shall on the first Mondays in February and August in each year make out and keep conspicuously hung up in its registered office, and every other office or place of business belonging to it where the business of banking is carried on, a statement in the form in the Third Schedule, or as near thereto as the circumstances admit.

(3.) The taking deposits of not more than ten shillings in any one payment, nor more than twenty pounds for any one depositor, payable on not less than two clear days' notice, shall not be included in the business of banking within the meaning of this Act; but no Society which takes such deposits shall make any payment of withdrawable Capital while any claim due on account of any such deposit is unsatisfied.

36. A registered Society may (if its Rules do not direct otherwise) hold, purchase, or take on lease in its own name any land, and may sell, exchange, mortgage, lease, or build upon the same, or grant Bonds and dispositions on security or other heritable Securities over the same (with power to alter and pull down buildings and again rebuild). Holding of Land.

Debentures issued by an Industrial Society are invalid unless registered as a Bill of Sale.

The exemption from registration contained in Section 17 of the Bills of Sale Act, 1882, does not apply to an Industrial Society. Such a Society is not an "Incorporated Company" within the meaning of the Section.—*In re Coal Co-operative Society, Great Northern Railway Co. v. Same*, II. Monson 621.

38.—(1.) A registered Society may invest any part of Investments by Societies.

its Capital in or upon any Security authorised by its Rules, and also, if the Rules do not direct otherwise—

(*a.*) in or upon any Security in which Trustees are for the time being authorised by law to invest; and

(*b.*) in or upon any Mortgage, Bond, Debenture, Debenture Stock, Corporation Stock, annuity, rentcharge, rent, or other Security (not being Securities payable to bearer) authorised by or under any Act of Parliament passed or to be passed of any Local Authority as defined by Section thirty-four of the Local Loans Act, 1875; and

38 & 39 Vict., c. 83.

(*c.*) in the shares or on the Security of any other Society registered or deemed to be registered under this Act, or under the Building Societies Acts, or of any Company registered under the Companies Acts or incorporated by Act of Parliament or by charter, provided that no such investment be made in the shares of any Society or Company other than one with limited liability.

(*a.*) The Securities in which Trustees are authorised by law to invest will be found in the Trustee Acts, Chapter IV.

(2.) A Society so investing shall be deemed to be a person within the meaning of the Companies Acts, and of the Building Societies Acts.

(3.) Any investments made before the passing of this Act, which would have been valid if this Act had then been in force, are hereby ratified and confirmed.

Power to invest in Savings Banks. 26 & 27 Vict., c. 87.

39. A Society (not being one chargeable with income tax in pursuance of this Act) may invest its Capital and Funds, or any part thereof to any amount, in any Savings Bank certified under the Trustee Savings Banks Act, 1863, or in a Post Office Savings Bank.

Advances to Members.

40. The Rules of a registered Society may provide for advances of money to members on the security of real or personal property, or in the case of a Society registered to carry on banking business in any manner customary in the conduct of such business.

50.—(1.) Upon the application of one-tenth of the whole number of members of a registered Society, or of one hundred members in the case of a Society exceeding one thousand members, the Chief Registrar, or, in the case of Societies registered and doing business exclusively in Scotland or Ireland, the Assistant Registrar for Scotland or Ireland respectively, but with the consent of the Treasury in every case, may— Power to appoint Inspectors.

(*a.*) appoint an Inspector or Inspectors to examine into and report on the affairs of such Society.

(5.) An Inspector appointed under this Section may require the production of all or any of the Books, Accounts, Securities, and Documents of the Society, and may examine on oath its officers, members, agents, and servants in relation to its business, and may administer an oath accordingly.

The Auditor is not an Officer under this Section, as in Clause 79 the term "Officer" is defined as extending "to any Treasurer, Secretary, member of the Committee, Manager, or servant, other than a servant appointed by the Committee of a Society."

65. If any person wilfully makes, orders, or allows to be made any entry or erasure in, or omission from, any Balance Sheet of a registered Society, or any contribution or collecting book, or any return or document required to be sent, produced, or delivered for the purposes of this Act, with intent to falsify the same, or to evade any of the provisions of this Act, he shall be liable to a fine not exceeding fifty pounds. Penalty for falsification.

72. The Treasury may appoint Public Auditors for the purposes of this Act, and may determine the rates of remuneration to be paid by registered Societies for the services of such Auditors, but the employment of such Auditors shall not be compulsory. Public Auditors.

73.—(1.) The Treasury may determine a scale of fees to be paid for matters to be transacted or for the inspection of documents under this Act. Fees.

75. Every document purporting to be signed by the Chief or any Assistant Registrar, or any Inspector or Evidence of Documents.

Public Auditor under this Act, shall, in the absence of any evidence to the contrary, be received in evidence without proof of the signature.

Application of Act to Channel Islands.

77. With respect to the Channel Islands this Act shall be varied as follows :—

(2.) As respects the Bailiwick of the Island of Guernsey :—

(*c.*) All Industrial and Provident Societies within the Bailiwick shall be authorised to invest any part of their funds in the States Bonds either of Guernsey or Alderney.

The omission with regard to authority for similar investment in the Island of Jersey was made good by the Industrial and Provident Societies Act, 1894, Section 3, *see post.*

Schedule II.

Matters to be provided for by the rules of Societies registered under this Act.

4. The appointment and removal of a Committee of Management, by whatever name, of Managers or other Officers, and their respective powers and remuneration.

6. Determination whether the Society may contract loans or receive money on deposit subject to the provisions of this Act from members or others ; and, if so, under what conditions, on what security, and to what limits of amount.

8. Provision for the audit of Accounts and for the appointment of Auditors or a Public Auditor.

9. Determination whether and how members may withdraw from the Society.

10. Mode of application of profits.

12. Determination whether, and by what authority, and in what manner, any part of the Capital may be invested.

The Industrial and Provident Societies Act, 1894.

(57 Vict., c. 8.)

[18th June, 1894.]

Short Title.

1. This Act may be cited as "The Industrial and Provident Societies Act, 1894," and the Industrial and Provident Societies Act, 1893, and this Act may be cited together as "The Industrial and Provident Societies Acts, 1893 and 1894."

Powers of Investment.

3. The following shall be added to Subsection (1) of Section seventy-seven of the last-mentioned Act as sub-head (*j*): All Industrial and Provident Societies within the said Island shall be authorised to invest any part of their funds in the "Rentes Publiques," or in the States Bonds of the said Island, if they think fit.

The heading to 77 (*i*) referred to is "As respects the Island of Jersey, the following provisions shall have effect."

The Trustee Savings Banks Act, 1863.

(26 & 27 Vict., c. 87.)

[28th July, 1863.]

As to Title of Savings Banks certified under this Act.

5. Every Savings Bank established or to be established under the provisions of the said hereby repealed Acts or this Act shall be certified under the provisions of this Act by the title of "Savings Bank certified under the Act of 1863;" and if any other Bank, Association, or Company, or any other person, shall use or adopt such title as their or his designation, or in carrying on business, the members of every such Association or Company, or any of them, or any such person respectively, shall be guilty of a misdemeanour, and on conviction thereof shall be punishable accordingly.

Penalty on using or adopting Titles of other Banks.

No Savings Bank, subject to proviso hereinafter

6. No Savings Bank, subject to the proviso hereinafter contained with respect to the Branch Offices or Local Receivers of any Savings Bank, shall have the benefit of

contained with respect to Branch Offices, &c., shall have benefit of this Act unless in Rules, &c., it shall be expressly provided as herein specified.

this Act unless in the Rules and Regulations for the management thereof it shall be expressly provided—

(1.) That no person or persons, being Treasurer, Trustee, or Manager of such Savings Bank, or having any control in the management thereof, shall derive any benefit from any Deposit made in such Savings Bank, save only and except such salaries and allowances or other necessary expenses as shall according to such rules and regulations be provided for the charges of managing such Savings Bank, and for remuneration to Officers employed in the management thereof, exclusive of the Treasurer or Treasurers, Trustee or Trustees, Manager or Managers, or other persons having direction in the management of such Savings Bank, who shall not directly or indirectly have any salary, allowance, profit, or benefit whatsoever therefrom beyond their actual expenses for the purposes of such Savings Bank.

(2.) That not less than two persons, being either Trustees, Managers, or paid Officers appointed for that specific purpose, and where two only, except in the case of Savings Banks which are open for more than six hours in every week, one such person to be a Trustee or Manager, be present on all occasions of public business, and be parties to every transaction of deposit and repayment, so as to form at least a double check on every such transaction with Depositors.

(3.) That the Depositor's Pass Book shall be compared with the Ledger on every transaction of repayment, and on its first production at the Bank after each twentieth day of *November*.

(4.) That every Depositor in a Savings Bank established under this Act shall once at least in every year cause his Deposit Book to be produced at the office of the said Savings Bank for the purpose of being examined.

(5.) That no money be received from or paid to Depositors except at the Office or Branch Offices where the business of the Savings Bank is carried on under the authority of the Board of Managers, and during the usual hours for public business.

(6.) That a Public Accountant or one or more Auditors be appointed by the Trustees and Managers, but not out of their own body, to examine the books of the Bank, and to report in writing to the Board or Committee of Management the result of such Audit, not less than once in every half-year, also to examine an extracted list of the Depositors' Balances made up every year to the twentieth day of *November*, and to certify as to the correct amount of the Liabilities and Assets of the bank :

(7.) That a book containing such extracted list of every Depositor's Balance, omitting the name, but giving the distinctive number and separate amount of each, and showing the aggregate number and amount of the whole, checked and certified by such Public Accountant or Auditors, be open at any time during the hours of public business for the inspection of every Depositor as respects his own Account, to examine his own Deposit Book therewith, and the general results of the same :

(8.) That the Trustees and Managers, or Committee of Management, shall hold meetings once at least in every half-year, and shall keep minutes of their proceedings in a separate book provided for that purpose :

(9.) Provided that where Savings Banks are established with agents or local receivers elsewhere than at the head office, the Rules shall provide for the due receipt of and accounting for all moneys by such agents or local receivers on account of such Savings Banks respectively, and also for the presence of a second party in every transaction when money is paid or received, and also for the periodical

Proviso with respect to Branch Offices and Local Receivers of Banks.

examination of the Depositors' books with the ledger once at the least in every year.

Weekly Returns to be made by Savings Banks to the Commissioners.

7. The Trustees and Managers of every Savings Bank shall transmit weekly returns to the Commissioners for the Reduction of the National Debt, in such form and giving such particulars as the said Commissioners may direct, showing the amounts of the week's transactions of such Savings Bank, and the amount of the cash balances remaining in the hands of the Treasurer, or any other person on account of such Savings Bank.

Effects of Savings Bank vested in Trustees for the time being.

10. All moneys, goods, chattels, and effects whatever, and all Securities for money, or other obligatory instruments and evidences or muniments, and all other effects whatever, and all rights or claims belonging to or had by such Savings Bank, shall be vested in the Trustee or Trustees of such Savings Bank for the time being, for the use and benefit of such Savings Bank and the respective Depositors therein, their respective executors or administrators, according to their respective claims and interests, and after the death or removal of any Trustee or Trustees shall vest in the succeeding Trustee or Trustees for the same estate and interest as the former Trustee or Trustees had therein, and subject to the same trusts, without any assignment or conveyance whatever.

Trustees of Savings Banks shall invest all money in the Banks of England or Ireland and not in any other Security.

15. The several sums of money belonging to any Savings Bank which the Trustees of such Savings Bank respectively are authorised to invest under this Act or under any rules or regulations of any such Savings Banks shall, except as hereinafter is excepted, be paid into and invested in the Bank of *England* or the Bank of *Ireland* as the case may require, in the names of the Commissioners for the Reduction of the National Debt, according to the provisions of this Act enabling such Trustees to make investments in the names of the said Commissioners, and no such sum or sums shall be paid or laid out by the Trustees of such Savings Bank in any other manner or upon any other security whatever, except as aforesaid, and except such sums of money as from time to time shall

necessarily remain in the hands of the Treasurer or Treasurers of such Savings Bank to answer the exigencies thereof: Provided always, that nothing herein contained shall restrain or prevent any Depositor, or any Trustee or Trustees acting on behalf of any Depositor or Depositors of any Friendly Society, or any Charitable or Provident Institution or Society, or Penny Savings Bank, from withdrawing from any such Savings Bank any sum or sums of money which shall have been deposited by such Depositor, Friendly Society, Charitable or Provident Institution or Society, or Penny Savings Bank, and investing the same in any other Securities: Provided always, that the Trustees of any Savings Bank already established, or which shall take the benefit of this Act in manner hereinbefore provided, shall be and they are hereby empowered to pay into the Bank of *England* or *Ireland* (as the case may be) any sum or sums of money, not being less than fifty pounds, to the Account of the Commissioners for the Reduction of the National Debt, upon the declaration of the Trustees of such Savings Bank, or any two or more of them, that such moneys belong exclusively to the Savings Bank for which such payment is intended to be made, whether such moneys shall have been deposited therein before the passing of this Act or thereafter shall be deposited therein.

Not to prevent Depositors withdrawing their money from Savings Banks for investment in other Securities.

Trustees empowered to pay into the Banks of England or Ireland any sum not less than £50 to the account of the Commissioners for the Reduction of the National Debt.

16. Nothing in this Act contained shall extend to prevent the Trustees of any Savings Bank already established or to be established receiving any sum or sums of money from any Depositor for any purpose except to be paid into the Bank to the account of the Commissioners for Reduction of the National Debt, and it shall be lawful for such Trustees to apply any such sum or sums of money in any other manner for the benefit of the several Depositors according to the rules and regulations of such Savings Banks respectively, anything in the said hereby repealed Acts or in this Act contained to the contrary notwithstanding.

Not to prevent Trustees from receiving money to be applied in any other manner.

17. In cases where any Savings Banks have been or

Central Banks may

invest the money of Branch Banks.

shall be established in any town or place, and other smaller Banks have been or shall be established in the neighbourhood of such town or place as Branch Banks thereof, and such Branch Banks by their Treasurers have paid or shall pay any sums into the Bank in any such town or place as a Central Bank, it shall and may be lawful for the said Trustees of any such Central Bank, or any two of them, to pay into the Bank of *England* or *Ireland* in manner prescribed by this Act, along with the moneys belonging to such Central Bank, any sum or sums of money belonging to and on account of any such Branch Bank : Provided always, that the Treasurer of such Branch Banks shall certify to the Treasurer of such Central Bank that the amount contributed by any one Depositor in any such Branch Bank in any one year does not exceed the limit of deposits authorised by this Act.

Interest due on money mentioned in receipt to be calculated half-yearly up to 20th November and 20th May and carried to account of Savings Bank as additional principal.

22. All interest which shall become due and payable upon any sum of money mentioned in any such receipt upon the twentieth day of *November* and the twentieth day of *May* in every year next after the date of any such receipt shall be from time to time calculated and computed by the Officer of the said Commissioners, and shall in each and every year be placed to the credit of the Savings Bank on whose account any such sum of money was paid within six weeks from such twentieth day of *November* and twentieth day of *May* respectively, and shall be carried to and written on the Account of such Savings Bank, and shall become principal, and shall from thenceforth carry interest as principal money paid into the said Bank of *England* or *Ireland*, as the case may be, on the Account of such Savings Bank ; and a receipt according to such form as the said Commissioners shall approve shall be signed by the Officer of the said Commissioners, and shall be issuable by the said Officer half-yearly within sixty days from and after such twentieth day of *November* and twentieth day of *May* respectively (and such receipts shall bear date the twenty-first day of *November* and twenty-first day of *May* respectively) for the amount of such interest so credited

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and made principal as aforesaid as if the amount thereof had been a payment made by the Trustees of such Savings Bank to the Account of the said Commissioners: Provided always, that no interest shall be computed or calculated on any fractional part of a pound of the half-yearly Balance standing in the books of the said Commissioners on account of any Savings Bank on any twentieth day of *November* or twentieth day of *May* respectively.

No interest to be allowed on any fractional part of a pound.

23. It shall be lawful for the Trustees and Managers of any such Savings Bank, if they shall so think fit, to direct that all interest which shall be payable to the Depositors in such Savings Bank shall yearly, or twice in each and every year, be calculated and computed by the Trustees of such Savings Bank, or such person or persons as they shall appoint, and shall be carried to the credit of such Depositors respectively, and shall become principal, and shall from thenceforth carry interest in all respects as other principal money deposited in the said Banks, or as if the said sum of interest so credited to the said Depositors respectively had actually been paid to the said Depositors and by them repaid to the said Trustees and Managers, any law, statute, or usage to the contrary notwithstanding: Provided always, that from and after the twentieth day of *November* one thousand eight hundred and sixty-three the interest payable to Depositors by the Trustees and Managers of any Savings Banks shall not exceed the rate of three pounds and tenpence *per centum per annum*.

Interest arising to Depositors may be calculated yearly or twice a year and carried to their credit as principal.

Interest to Depositors not to exceed £3 0s. 10d. per cent. per annum.

39. It shall not be lawful for the Trustees of any Savings Bank to receive from any one present or future Depositor, within any one year ending on the twentieth day of *November* (whether any sum or sums of money had been previously withdrawn or not), any sum or sums exceeding in the whole thirty pounds, exclusive of compound interest: Provided always, that, except in the cases hereinafter provided, whenever the sum or sums standing in the name of any Depositor shall amount in the whole to two hundred pounds, principal and interest included, thenceforth no interest shall be payable on any such

Trustees not to receive from any one Depositor more than £30 in any one year, nor more than £150 in the whole.

When Deposit and Interest amount to £200 Interest to cease.

deposit so long as it shall continue to amount to the said sum of two hundred pounds.

Appointment of Auditors in Ireland.

51. The Trustees of each Savings Bank in *Ireland* shall, as soon as conveniently may be after the passing of this Act, and from time to time in case of a vacancy, appoint an Auditor or Auditors to audit the Accounts of the said Savings Bank, as well as to examine and inspect the books of the several Depositors, and the said Trustees shall immediately after such appointment transmit the signature, name, and address of the said Auditor or Auditors to the Commissioners for the Reduction of the National Debt; and the Trustees of every such Savings Bank in *Ireland* shall cause the annual and other Statements required to be transmitted under this Act to be certified and verified by the Auditor or Auditors appointed by the said Trustees, in addition to the attestation by Trustees and Managers, as also required by this Act, and shall also cause a certificate from the said Auditor or Auditors, as to the result of his or their examination of such of the Depositors' books as may have been produced to him or them for examination to be transmitted with the said Annual Statement to the said Commissioners: Provided always, that it shall be lawful for the Trustees of any such Savings Bank in *Ireland* to agree with the Trustees of any other such Savings Bank or Banks in *Ireland* as to the appointment of a common Auditor or Auditors, and the Auditor or Auditors so appointed for all the said Banks shall be deemed and taken, as soon as the signature, name, and address shall have been transmitted by each such Bank to the said Commissioners, to be the Auditor or Auditors of each such Bank.

Depositors' Book in Ireland to contain copy of Rules.

Duplicate copy to be exhibited in the Office.

52. Every Depositor in every Savings Bank in *Ireland* on his first deposit shall be furnished with a deposit book, in which shall be printed at length a copy of the certified Rules of the Savings Bank in which he shall make such deposit; and a duplicate copy of the certified Rules, and of every alteration and amendment thereof, and a duplicate copy of every Annual Statement or Account required by

and furnished to the said Commissioners, signed by two Trustees or Managers of any such Savings Bank, shall be from time to time exhibited in the office of such Savings Bank, and shall be open to the inspection of every Depositor or person intending to be such.

Rules in Ireland to provide for production and inspection of Books.

53. The rules of every Savings Bank in *Ireland* shall specify a number of days, not less than two in every year, ending on the twentieth of *November*, in which the book of each Depositor shall be produced at the office of the said Savings Bank for the purpose of being inspected, examined, and verified with the books of the Savings Bank by the Auditor or Auditors.

Trustees of Savings Banks shall make up annually Accounts of their progress, &c., and transmit the same to the Commissioners for Reduction of the National Debt.

55. For the more effectual ascertaining from time to time the actual and progressive state of the several Savings Banks enrolled under the provisions of this Act, the Trustees and Managers of every such Savings Bank shall annually cause a general Statement of the funds of such Savings Bank invested in the Bank of *England* or the Bank of *Ireland* in the names of the Commissioners for the Reduction of the National Debt to be prepared up to the twentieth day of *November* in each year, showing the balance or principal sum due to all the Depositors collectively in such Savings Bank, and a Statement of the expenses incurred, and stating in whose hands such balance shall then be remaining; and every such Annual Statement shall be attested by two Managers or two Trustees, or by one Manager and one Trustee, of such Savings Bank, and every such Annual Statement shall be countersigned by the Secretary or Actuary of such Savings Bank, and all such Annual Statements shall be transmitted to the office of the said Commissioners for the Reduction of the National Debt in *London* or *Dublin* (as the case may be) within nine weeks after the twentieth day of *November* in each year.

A duplicate of such Account shall be affixed in the Office of the Savings Bank.

59. The Trustees and Managers of every such Savings Bank shall cause a duplicate of every such Annual Statement, accompanied by a list of the Trustees and Managers of such institution for the time being, attested and countersigned as aforesaid, to be publicly affixed and

exhibited in some conspicuous part of the office or place where the deposits of such Savings Bank are usually received, for the information of all parties making deposits therein ; and every such duplicate shall from time to time remain so affixed and exhibited until the ensuing Annual Statement shall in like manner be affixed and exhibited as aforesaid ; and every Depositor shall be entitled to receive from the said Savings Bank a printed copy of such Annual Statement on payment of one penny.

Savings Banks shall compute Interest on 20th May and 20th November half-yearly or yearly.

62. For the purpose of rendering the Accounts of the several Savings Banks in *Great Britain* and *Ireland* uniform and correspondent with the Accounts of the Commissioners for the Reduction of the National Debt the interest payable to the Depositors in such Savings Banks in *Great Britain* and *Ireland* shall, from and after the twentieth day of *November*, one thousand eight hundred and sixty-three, be computed half-yearly to the twentieth day of *May* and the twentieth day of *November*, or yearly to the twentieth day of *November* in each year, as the case may be, and to no other periods.

The Savings Banks Act, 1891.

(54 & 55 Vict., c. 21.)

[3rd July, 1891.]

Establishment of Inspection Committee.

2.—(1.) There shall be established an Inspection Committee of Trustee Savings Banks.

Powers and duties of Inspection Committee.

3.—(1.) The Inspection Committee may appoint persons to inspect the Books and Accounts of Trustee Savings Banks, and to examine and ascertain and report to the Committee from time to time, with respect to each Bank, whether the Bank has complied with the requirements of the Acts and Rules relating to the Bank as to the security to be taken from officers, the Accounts of the Bank and the conduct of its business, and whether any portion of the expenditure is excessive or unnecessary ; and every

Trustee Savings Bank shall give all due facilities for enabling any such inspection or examination to be made.

(4.) The Trustees of every Trustee Savings Bank shall, on the requisition of the Committee, supply the Committee with a copy of the pass book in use in the Bank, of the Annual General Statement of the Accounts of the Bank, and of the Rules of the Bank, and of any amendments thereof.

(5.) If in the opinion of the Committee the Rules of any such Bank are insufficient for the purpose of maintaining an efficient audit, the Bank shall with all convenient speed make such additional Rules as may, in the opinion of the Committee, be required for the purpose.

(6.) If the Bank do not, within a time specified by the Committee from the date of being required to make any such Rules, comply with the requirement, the Committee may make such Rules, and shall submit the Rules so made to the Registrar of Friendly Societies, to be certified by him ; and, when so certified, they shall be binding on the Trustees.

Form of Annual Statement by Trustees of Trustee Savings Banks.

8. The Annual Statement required by Section fifty-five of the Trustee Savings Banks Act, 1863, to be made by the Trustees and Managers of every Trustee Savings Bank shall be in such form, and contain, or be accompanied by, such particulars as the National Debt Commissioners direct. A similar Statement shall be sent to the Inspection Committee each year at the same time.

Provisions as to special investments.

10. The power of a Trustee Savings Bank to make investments (hereinafter referred to as special investments) in pursuance of Section sixteen of the Trustee Savings Banks Act, 1863, shall be subject to the following restrictions, namely :—

(*a.*) An investment shall not be made after the commencement of this Act on behalf of any person unless he is at the time of making the investment a Depositor in the Bank to the extent of not less than fifty pounds : Provided that nothing in this subsection shall prevent the continuance of special

investments in behalf of any person who is before the passing of this Act a Depositor under Section sixteen of the Trustee Savings Banks Act, 1863 ;

(*b.*) The total amount to be invested after the commencement of this Act on behalf of any one Depositor shall not exceed five hundred pounds in the aggregate ;

(*c.*) The money received for investment after the commencement of this Act shall not be invested in any manner not for the time being authorised by law in the case of investment by Trustees, and shall not be invested on mortgage of land or any interest in land ;

(*d.*) The Accounts of the Bank shall be kept so as to distinguish between the receipts and expenditure on account of special investments and the receipts and expenditure on account of the general business of the Bank ;

(*e.*) The assets of the Bank in respect of ordinary deposits shall not be chargeable with any part of the expenditure on account of special investments, and shall not be liable for any loss or deficiency in respect of special investments ;

(*g.*) The Annual Statement required by Section fifty-five of the Trustee Savings Banks Act, 1863, shall contain, or be accompanied by, such particulars with respect to the special investments of the Bank as the National Debt Commissioners direct ;

(*h.*) The Rules of the Bank shall provide to the satisfaction of the Inspection Committee for the audit, examination, and publication of the investment accounts, for the safe custody of the securities held by the Bank on account of special investments, and the security to be given by Officers of the Bank in respect of the amount received on such account ;

(*i.*) The power to make special investments shall not be exercised by any Bank unless the Bank has

exercised the power before the first day of June, one thousand eight hundred and ninety-one.

Amendment of Law as to limit of Deposit and Interest on Deposit.

11. Whereas it is not lawful for the Trustees of a Savings Bank or for the Postmaster-General to receive from any Depositor any sum which shall make the sum to which such Depositor shall be entitled exceed the sum of one hundred and fifty pounds in the whole, exclusive of interest, but the sum standing in the name of any Depositor may be increased by accumulation of interest to any sum not exceeding two hundred pounds in the whole, and difficulties have arisen in the due apportionment between principal and interest standing to the credit of Depositors in excess of one hundred and fifty pounds, be it therefore enacted as follows :

(1.) A Savings Bank shall not receive any deposit which makes the sum standing in the name of any Depositor in the Bank exceed two hundred pounds.

(2.) So much of any enactment as prohibits the receipt from any Depositor of any sum of money which makes the sum to which he is entitled exceed the sum of one hundred and fifty pounds in the whole, exclusive of interest, is hereby repealed.

(3.) Interest shall be allowed in full on the sum standing in the name of a Depositor in a Savings Bank so long as it does not exceed two hundred pounds, but whenever the sum standing in the name of any Depositor in any Savings Bank exceeds that amount, interest shall not be allowed on any sum in excess of two hundred pounds.

(4.) Notwithstanding any restriction on the amount to be deposited in any one year, a Depositor in a Savings Bank may, not more than once in any Savings Bank year, deposit money to replace money previously withdrawn in one entire sum during that year. For the purposes of this provision the expression " Savings Bank year " means, with reference to Trustee Savings Banks, the year

ending the twentieth day of November, and with reference to the Post Office Savings Banks, the year ending the thirty-first day of December.

Definitions. 16. In this Act—

The expression "Trustee Savings Bank" means a Bank certified under the Trustee Savings Banks Act, 1863.

The expression "Savings Bank" (without the word Trustee) includes both a Trustee Savings Bank and a Post Office Savings Bank.

The expression "Friendly Society" means a Friendly Society legally registered in the manner required by the Acts for the time being in force relating to Friendly Societies, and includes a registered branch.

Short Title 3. 19.—(1.) This Act may be cited as "The Savings Banks Act, 1891."

(2.) The Trustee Savings Banks Acts, 1863 and 1887, and so much of the Savings Banks Act, 1887, as relates to Trustee Savings Banks, and this Act, may be cited collectively as "The Trustee Savings Bank Acts, 1863 to 1891."

CHAPTER IV.

THE LAW RELATING TO AUDITORS AND ACCOUNTS OF UNIVERSITIES, JUDICIAL TRUSTEES, EXECUTORS, ETC.

The Universities and College Estates Act, 1858—The Universities and College Estates Amendment Act, 1880—The Universities and College Estates Act, 1898—The Universities of Oxford and Cambridge Act, 1877—The County Courts Act, 1888—The Sheriffs Act, 1887—The Judicial Trustees Act, 1896—The Intestates' Estates Act, 1890—The Apportionment Act, 1870—The Trustee Act, 1893—The Colonial Stock Act, 1900—The Larceny Act, 1861—The Falsification of Accounts Act, 1875.

The Universities and College Estates Act, 1858.

(21 & 22 Vict., c. 44.)

[23rd July, 1858.]

Application of Mineral Rents, &c.

21. All the net Rents, Tolls, Duties, Royalties, and Reservations which shall be received by the University or College, for or in respect of any Lease to be granted under the authority of the last foregoing Section, shall be applied and disposed of by such University or College in manner following; (that is to say,) One equal Third Part of such net Rents, Tolls, Duties, Royalties, and Reservations, shall be applicable and be applied by such University or College as part of their ordinary income, and the remaining two equal third parts thereof shall be applicable and be applied by such University or College in or upon any of the purposes following; (that is to say,) in the purchase of lands to be conveyed to the use or for the benefit of such University or College, or in the erection of new buildings, or in the addition to and enlargement of any existing buildings, or in the drainage or other permanent and lasting improvement of any lands belonging to such

University or College, or in the purchase of any wayleaves or other easements, in, over, or upon any lands adjoining, or near to any such lands; and, in the meantime, until such two equal third parts shall be applied in or upon any of the purposes aforesaid, the same shall be invested by such University or College in the purchase of Government Stocks, Funds, or Securities, and the interest, dividends, and annual proceeds thereof shall be received by such University or College, and be applicable as part of their ordinary income.

Particular Property not to be leased.

26. Provided always, that this Act or anything herein contained, shall not authorise the granting of any lease or the laying out or appropriating for the purposes in this Act mentioned of any house, or building or lands forming part of or attached to or locally situate within the boundaries or precincts of any College or of any offices, outbuildings, yards, and gardens to any such College adjoining or appertaining, and which may be necessary or convenient for actual occupation by the members of any such College or any of them, or the grant or lease of any mines, minerals, quarries, ways, watercourses, or other easements, the grant thereof may be prejudicial to the convenient enjoyment of any such house or building, or the offices or gardens thereto belonging.

Powers to raise Monies with consent of Copyhold Commissioners, by Mortgage for certain purposes.

27. It shall be lawful for the said Universities and any College therein respectively, and for the Colleges of *St. Mary* of *Winchester* near *Winchester*, and of King *Henry* the Sixth at *Eton*, from time to time and at any time hereafter, with the consent of the said Copyhold Commissioners (such consent to be evidenced by an Order, to be issued under their Hands and Common Seal, in the form or to the effect set forth in the said Schedule hereto) to raise by Mortgage of any Lands belonging to such University or College, for any term of years (determinable as hereafter provided), such sum or sums of money (together with all reasonable costs and expenses incidental to such raising and the application thereof) as shall be certified by the Surveyor of the University or College to be properly

required, and shall be authorised by the said Commissioners, with interest thereon not exceeding the rate to be specified in such Order, and to apply such sum or sums of money for all or any of the purposes following: (that is to say,) for or towards the restoration and improvement and (if need be) enlargement of any house or building forming part of or connected with or otherwise belonging to such University or College, or for or towards the erection of new or additional houses or buildings, or for the extension and improvement of any existing houses or buildings upon any lands belonging to such University or College, or for the drainage or other permanent and lasting improvement of any lands belonging to such University or College.

Provision for the discharge of the Monies borrowed on Mortgages.

28. Where any Mortgage is made by any University or College under either of the powers hereinbefore contained for that purpose, such University or College shall, out of the rents and profits of the lands comprised in any such Mortgage, or out of the funds and revenues of such University or College, either repay the same monies by the grant of an annuity, upon such terms as shall be approved of by the said Commissioners, to the lender or other person to whom the same monies shall be due, or shall keep down all the interest of such monies as the same shall become due, and annually thereafter reserve or raise out of the same rents and profits, or funds and revenues, and out of the income arising from any such Sinking Fund as shall have been created under the provisions following, one-thirtieth part at least of the amount of the principal debt, and apply the same to the reduction thereof, either by direct payment to the lender, or other person to whom the same shall be due, if he shall consent or be under engagements or otherwise required to receive the same, or by the creation of a Sinking Fund for that purpose, in such manner as shall be approved by the said Commissioners.

Short Title.

33. It shall be sufficient for all purposes to cite this Act as "The Universities and College Estates Act, 1858."

The Universities and College Estates Amendment Act, 1880.

(43 & 44 Vict., c. 46.)

[7th September, 1880.]

Short Title

1. This Act may be cited as "The Universities and College Estates Amendment Act, 1880," and this Act and the Universities and College Estates Act, 1858, and the Universities and College Estates Act Extension, 1860, may be cited collectively as "The Universities and College Estates Acts, 1858 to 1880."

21 & 22 Vict., c. 44.
23 & 24 Vict., c. 59.

Application of purchase money for land sold by University or College.
21 & 22 Vict., c. 44.

2.—(1.) The purchase money of land sold by a University or College under the Universities and College Estates Act, 1858, or any other Act amending the same, shall, with the consent of the Copyhold Commissioners, be from time to time applicable by the University or College in the repayment of any money borrowed under any of those Acts, or to any of the purposes to which money so borrowed is applicable under those Acts.

(2.) Where any such purchase money is so applied, the like provision shall be made by the University or College for replacing the same as is by Section twenty-eight of the Universities and College Estates Act, 1858, required to be made for the repayment of money borrowed under that Act: Provided that where any such purchase money is applied in repayment of a loan, it shall be replaced within or at the expiration of the period limited for repayment of the loan and upon the terms mentioned in the order of the Copyhold Commissioners by which their consent to the loan is or was evidenced.

21 & 22 Vict., c. 44.

Rebuilding of Chancels to be within Act.
21 & 22 Vict., c. 44.

3. Any moneys applicable under the said Acts to or for any of the purposes mentioned in the twenty-seventh Section of the Universities and College Estates Act, 1858, may also be applied, by and under the authority of the said Copyhold Commissioners, in or towards the restoration or rebuilding of the Chancel of any Church which the University or College to which such moneys belong may be by law liable to restore or rebuild.

The Universities and College Estates Act, 1898.

(61 & 62 Vict., c. 55.)

[12th August, 1898.]

Extension of powers of sale, &c., exercise-able by Universities and Colleges.

1. For the purposes of sale, enfranchisement, exchange, partition, and leasing, a University or College may exercise any of the powers conferred on a tenant for life by the Settled Land Acts, 1882 to 1890, and for those purposes the provisions of those Acts mentioned in Part I. of the First Schedule to this Act shall apply accordingly, subject to the modifications mentioned in Part II. of that Schedule.

Provided that—

(*a.*) The powers of sale, enfranchisement, exchange, and partition, and the power of granting building leases with option of purchase, shall not be exercised without the consent of the Board of Agriculture ; and

(*b.*) Capital money payable on any such sale, enfranchisement, exchange, or partition, or on the exercise of any such option, shall be paid to the Board of Agriculture.

Application of Capital Money.

2.—(1.) Capital money paid, whether before or after the commencement of this Act, to the Board of Agriculture under the Universities and College Estates Acts, 1858 to 1880, or this Act, or arising under Section twenty-one of the Universities and College Estates Act, 1858, and the proceeds of sale of securities representing any such money, may, with the consent of the Board of Agriculture, be applied by a University or College to any of the following purposes :—

(i.) The investment in the name of the Board on any securities in which Trustees are by law authorised to invest trust money ; and

(ii.) The purposes mentioned in the Second Schedule to this Act ; and

(iii.) The purchase of the interest of a lessee under a lease from the University or College.

(2.) The income of any such Securities shall be paid or applied as the income of the land represented by the Securities would have been payable or applicable.

(3.) Land purchased under this section shall be conveyed to the University or College to be held to uses or upon trusts corresponding to the purposes for which the capital money or proceeds of sale of Securities applied in the purchase were held, except that copyhold land may be conveyed to trustees.

(4.) Where the purpose to which money may be applied under this section is of such a nature that, in the opinion of the Board of Agriculture, provision ought to be made for replacing the money within a limited time, the Board shall, in giving their consent to the application, require provision to be so made.

Powers of Borrowing for Improvements.

3.—(1.) The purposes for which money may be borrowed by a University or College under Section twenty-seven of the Universities and College Estates Act, 1858, shall include the improvements mentioned in the Third Schedule to this Act, being improvements to which capital money arising under the Settled Land Acts, 1882 to 1890, may be applied.

(2.) The period for repayment of money borrowed after the commencement of this Act for an improvement under the Universities and College Estates Acts, 1858 to 1880, or this Act shall be such period not exceeding fifty years as the Board of Agriculture, having regard in each case to the character and probable duration of the improvement, determine.

Power to extend period for Repayment of Fine or Loans.

4.—Where under the Universities and College Estates Acts, 1858 to 1880, money has, before the commencement of this Act, been borrowed or applied by a University or College for the purpose of an indemnity for the loss of a fine in respect of land held under a beneficial lease, and it is proved to the satisfaction of the Board of Agriculture that the annual amount required for the repayment of the money exceeds one-half of the net annual value of the land after deduction therefrom of the rent reserved by the

beneficial lease, the Board may (with the consent of the lender in the case of money borrowed) extend, within the limits authorised by this Act for improvement loans, the term for repayment or replacement of the money, and make such other modifications in the provisions for repayment or replacement as may be considered expedient. Provided that the aggregate amount required to be repaid or replaced by a University or College in any one year in respect of money so borrowed or applied shall be not less than the average annual amount so repaid or replaced during the five years ending the thirty-first day of December one thousand eight hundred and ninety-eight.

Provision as to Money payable into Court or to Trustees.

6.—(1.) Where the purchase consideration or compensation money payable in respect of any land belonging to a University or College is directed by any Act of Parliament to be paid into Court, or either into Court or to Trustees, the money shall, at the option of the University or College, be paid either as directed by the Act or to the Board of Agriculture.

(2.) Where any such money has been paid either before or after the commencement of this Act either into Court or to Trustees on behalf of a University or College, that sum, or the securities representing it, may, if in Court on the application of, and if held by Trustees by the direction of, the University or College, be paid or transferred to the Board of Agriculture.

(3.) Money paid and securities transferred to the Board of Agriculture under this section on behalf of a University or College shall be treated as capital money paid to the Board under this Act and as securities representing money so paid.

Application and Interpretation.

7.—This Act shall apply only to the Universities and Colleges to which the Universities and College Estates Acts, 1858 to 1880, apply, and references in those Acts to any specific provisions thereof shall be construed as references to those provisions as amended by this Act or to the corresponding provisions of this Act as the case may require.

Short Title. 8.—(3.) This Act may be cited as "The Universities and College Estates Act, 1898," and may be cited with the Universities and College Estates Acts, 1858 to 1880.

SCHEDULES.

First Schedule.

Part I.

Enactments relating to Sale, Enfranchisement, Exchange, Partition, and Leasing.

The Settled Land Act, 1882 (45 & 46 Vict., c. 38).
Sections three, four, six, seven, eight, nine, ten, twelve, thirteen, fourteen, sixteen, seventeen, thirty-one, thirty-four, fifty-five.

The Settled Land Act, 1884 (47 & 48 Vict., c. 18.).
Section four.

The Settled Land Act, 1889 (52 & 53 Vict., c. 36).
Sections two and three.

The Settled Land Act, 1890 (53 & 54 Vict., c. 69).
Sections five, eight, and nine.

Part II.

Adaptation of Enactments applied.

For the purpose of adapting the foregoing enactments to the case of Universities and Colleges, the following modifications shall be made therein :—

(1.) References to a University or College and land belonging to a University or College shall be substituted for references to a tenant for life and settled land ;

(2.) References to land or an estate or interest in land or other property, belonging to a University or College, shall be substituted for references to land or an estate

or interest in land or other property, the subject of or comprised in the settlement ;

(3.) References to Capital money payable to the Board of Agriculture shall be substituted for references to Capital money arising under the Settled Land Acts, 1882 to 1890 ;

(4.) The Board of Agriculture shall be substituted for the Trustees of the settlement and for the Court.

Second Schedule.

Purposes to which Capital Money may be applied.

1. Discharge, purchase, or redemption of incumbrances affecting the inheritance of land belonging to the University or College, or of land tax, rentcharge in lieu of tithe, Crown rent, chief rent, or quit rent, charged on or payable out of the land. *See* 45 & 46 Vict., c. 38, s. 21.

2. Payment for equality of exchange or partition of land belonging to the University or College.

3. Purchase of the seignory of any part of the land belonging to the University or College, being freehold land, or in purchase of the fee simple of any part of that land, being copyhold or customary land.

4. Purchase of the reversion or freehold in fee of any part of the land belonging to the University or College, being leasehold land held for years, or life, or years determinable on life.

5. Purchase of land in fee simple, or of copyhold or customary land, or of leasehold land held for sixty years or more unexpired at the time of purchase, subject or not to any exception or reservation of or in respect of mines or minerals therein, or of or in respect of rights or powers relative to the working of mines or minerals therein, or in other land.

6. Purchase, either in fee simple, or for a term of sixty years or more, of mines and minerals convenient to be held

or worked with land belonging to the University or College, or of any easement, right, or privilege convenient to be held with that land for mining or other purposes.

7. Payment of costs, charges, and expenses of or incidental to the exercise of any of the powers, or the execution of any of the provisions, of the Universities and College Estates Acts, 1858 to 1880, or this Act.

Third Schedule.

Improvements for which Universities and Colleges may Borrow.

See 45 & 46 Vict., c. 38, s. 25; 53 & 54 Vict., c. 69, s. 13.

(i.) Drainage, including the straightening, widening, or deepening of drains, streams, and watercourses :

(ii.) Irrigation ; warping :

(iii.) Drains, pipes, and machinery for supply and distribution of sewage as manure :

(iv.) Embanking or weiring from a river or lake, or from the sea, or a tidal water :

(v.) Groynes ; sea walls ; defences against water :

(vi.) Inclosing ; straightening of fences ; re-division of fields :

(vii.) Reclamation ; dry warping :

(viii.) Farm roads ; private roads ; roads or streets in villages or towns :

(ix.) Clearing ; trenching ; planting :

(x.) Cottages for labourers, farm servants, and artizans employed on the land or not :

(xi.) Farmhouses, offices, and out-buildings, and other buildings for farm purposes :

(xii.) Saw mills, scutch mills, and other mills, water-wheels, engine-houses, and kilns, which will increase the value of land belonging to the University or College for agricultural purposes or as woodland or otherwise :

(xiii.) Reservoirs, tanks, conduits, watercourses, pipes,

wells, ponds, shafts, dams, weirs, sluices, and other works and machinery for supply and distribution of water for agricultural, manufacturing, or other purposes, or for domestic or other consumption :

(xiv.) Tramways ; railways ; canals ; docks :

(xv.) Jetties, piers, and landing places on rivers, lakes, the sea, or tidal waters, for facilitating transport of persons and of agricultural stock and produce, and of manure and other things required for agricultural purposes, and of minerals, and of things required for mining purposes :

(xvi.) Markets and market-places :

(xvii.) Streets, roads, paths, squares, gardens, or other open spaces for the use, gratuitously or on payment, of the public or of individuals, or for dedication to the public, the same being necessary or proper in connection with the conversion of land into building land :

(xviii.) Sewers, drains, watercourses, pipe-making, fencing, paving, brick-making, tile-making, and other works necessary or proper in connection with any of the objects aforesaid :

(xix.) Trial pits for mines, and other preliminary works necessary or proper in connection with development of mines :

(xx.) Bridges :

(xxi.) Making any additions to or alterations in buildings reasonably necessary or proper to enable the same to be let.

(xxii.) Erection of buildings in substitution for buildings within an urban district taken by a local or other public authority, or for buildings taken under compulsory powers, but so that no more money be expended than the amount received for the buildings taken and the site thereof :

(xxiii.) Reconstruction, enlargement, or improvement of any of those works.

The Universities of Oxford and Cambridge Act, 1877.

(40 & 41 Vict., c. 48.)

[10th August, 1877.]

Short Title.

1. This Act may be cited as "The Universities of Oxford and Cambridge Act, 1877."

12. The Commissioners may by virtue of this Act, and subject and according to the provisions thereof, make by writing under their Seal Statutes for the University and for any College or Hall.

Objects of Statutes for University.

16. With a view to the advancement of art, science, and other branches of learning, the Commissioners, in Statutes made by them for the University, may from time to time make provision for the following purposes or any of them:

(1.) For enabling or requiring the several Colleges, or any of them, to make contribution out of their Revenues for University purposes, regard being first had to the wants of the several Colleges in themselves for educational and other collegiate purposes:

(2.) For the creation, by means of contributions from the Colleges or otherwise, of a common University Fund to be administered under the supervision of the University:

(3.) For making payments, under the supervision of the University, out of the said common Fund for the giving of instruction, the doing of work, or the conducting of investigations within the University in any branch of learning or inquiry connected with the studies of the University:

(4.) For consolidating any two or more Professorships or Lectureships:

(5.) For erecting and endowing Professorships or Lectureships:

(9.) For providing retiring pensions for Professors and Lecturers:

(10.) For providing new or improving existing Buildings, Libraries, Collections, or Apparatus :

(11.) For diminishing the expense of University education by founding Scholarships tenable by Students either at any College or Hall within the University, or as unattached Students, not members of any College or Hall, or by paying salaries to the teachers of such unattached Students, or by otherwise encouraging such unattached Students :

(12.) For founding and endowing Scholarships, exhibitions, and prizes for encouragement of proficiency in any art or science or other branch of learning :

(15.) For regulating the application of the purchase-money for any Advowson sold by the University :

(16.) For founding any office not paid out of University or College Funds in connection with any special educational work done out of the University under the control of the University, and for remunerating any Secretary or Officer resident in the University and employed there in the management of any such special educational work.

In accordance with the power conferred on them the University of Oxford Commissioners made the following Statute concerning the form of Accounts of the University and the Audit and Publication thereof :—

1. The Curators of the University Chest shall take care that the Accounts of the University are duly kept in proper Books of account, in which shall be entered all Receipts and Payments by them on behalf of the University, whether in respect of the General Fund, or of Funds appropriated to the support of particular Institutions within the University, or to other special purposes, or of Trust Funds. Proper records should be kept of all property of every kind held, and of all debts and liabilities contracted, by or on account of the University or any Trust. The Books shall include :—

(*a.*) A Register of all the property of the University, showing the description, situation, amount, rental, or other annual value of every property ; the fixed charges on it (if any) ; and, in the case of Stocks or other Securities, the names in which and the Accounts to which the same are standing :

(*b.*) A Roll of Rents, Rentcharges, Dividends, and other annual income, showing the amounts receivable and those actually

received during the year, and the arrears (if any) at the beginning and at the close of the account:

(*c.*) A Cash book or Cash books, containing a record of all cash transactions:

(*d.*) A Ledger or Ledgers:

And also all such other Books as may be necessary or convenient for regularly recording all such receipts and payments and other matters and things as aforesaid, and for enabling the several Accounts to be duly checked and balanced, and the correctness of the Abstracts and Balance Sheet for the publication of which provision is made by this Statute, to be ascertained and verified.

2. On or before the twenty-fourth day of March in every year the Curators of the University Chest shall cause to be prepared and delivered to the Vice-Chancellor:—

(*a.*) Abstracts of Receipts and Payments on the general account of the University for the year ending on the thirty-first of December last preceding:

(*b.*) Abstracts of Receipts and Payments on account of the several properties held in trust by the University and administered by the Curators of the University Chest:

(*c.*) Abstracts of Receipts and Payments on account of any special Funds administered by the Curators of the University Chest:

(*d.*) A Balance Sheet, showing at the close of the account the state of the current accounts of all the Funds administered by the Curators of the University Chest:

(*e.*) A Statement of all Loans contracted by the University and outstanding; showing in respect of each Loan the amount originally borrowed, the amount remaining unpaid, the power under which the Loan was contracted, the rate of interest, and the provision made for repayment.

The Abstracts of Receipts and Payments on the general account of the University, and on account of properties held in Trust, and the Balance Sheet shall be respectively in the forms set forth in the Schedule annexed to this Statute. But the Curators may, if for special reasons it appear advisable to do so, sub-divide any item of account in the scheduled forms into more items than one, or insert additional items.

3. The Hebdomadal Council shall annually appoint a University Auditor, who shall be either a professional Accountant carrying on business in London or Westminster, or (if they think fit) a person conversant with Accounts approved by the Permanent Secretary to Her Majesty's Treasury. He shall, in conjunction with the Auditors of University Accounts appointed by the University (or alone if the University by Statute so determine), audit all Accounts, whether relating to the general Revenues and Expenditure of the University, or to property held on special Trusts. The Auditor or Auditors shall report in writing to the Vice-Chancellor whether the Accounts are

duly kept in proper Books of account in conformity with the provisions of this Statute, and whether the Abstracts, Balance Sheet, and Statement contain a true account of the financial condition of the University.

It shall be lawful for the Auditors or any Auditor to report specially as to any payment which they or he may judge to have been made without sufficient authority. When such a special Report is made, the question shall be referred to three persons, one of whom shall be the Assessor for the time being to the Vice-Chancellor, and the other two shall be nominated at the beginning of each academical year by the Hebdomadal Council; and the decision of such three persons or the major part of them shall be final.

4. The expense of such audit (including any payment of any clerk or clerks whose assistance may be required) shall be paid out of the University Chest.

5. On receiving the Abstracts, Balance Sheet, Statement, and Auditors' Report above mentioned, the Vice-Chancellor shall cause them to be printed, laid before Convocation, and published within the University. When any question is referred as aforesaid the Vice-Chancellor shall cause the decision of the Referees to be in like manner printed and published.

6. Abstracts of the Accounts of the Bodleian Library, the Botanic Garden, the Sheldonian Theatre, the Ashmolean Museum, the Taylor Institution, the University Galleries, the University Museum (including the several scientific departments thereof), the University Observatory, the Delegacy of University Police, the Curators of the Park, the Hope Curators, the Hope Keeper of Engraved Portraits, the Delegacy of Students not attached to any College or Hall, the Lodging-houses Delegacy, the Ruskin Trustees, and of all other funds appropriated to the support of particular Institutions, or to other special purposes within the University, and administered otherwise than by the Curators of the University Chest, shall be in like manner audited, laid before Convocation, and published.

7. The general Accounts of the University and the Accounts of each Trust shall, after the audit thereof, be open to inspection by Members of Convocation at convenient times, under such regulations as the University may by Statute make from time to time, and in default of subject to any such statutory regulations, under regulations to be made by the Curators of the University Chest.

8. The Accounts of the Delegates of the Clarendon Press shall be audited in such manner as the University shall by Statute from time to time determine.

This Statute is a Statute wholly for the University within the meaning of the Universities of Oxford and Cambridge Act, 1877, Section 30.

Objects of Statutes for Colleges in themselves.

17. The Commissioners, in Statutes made by them for a College, may from time to time make provision for the following purposes relative to the College, or any of them :

(1.) For altering and regulating the conditions of eligibility or appointment, including where it seems fit those relating to age, to any Emolument or Office held in or connected with the College, the mode of election or appointment thereto, and the value, length, and conditions of tenure thereof, and for providing a retiring pension for a holder thereof :

(5.) For affording further or better instruction in any art or science or other branch of learning :

(6.) For providing new or improving existing buildings, libraries, collections, or apparatus, for any purpose connected with instruction or research in any art or science or other branch of learning, and for maintaining the same :

(7.) For diminishing the expense of education in the College :

(10.) For regulating the application of the purchase money for any Advowson sold by the College :

Objects of Statutes for Colleges in relation to University.

18. The Commissioners, in Statutes made by them for a College, may from time to time make provision for the following purposes relative to the University, or any of them :

(1.) For authorising the College to commute any annual payment agreed or required to be made by it for University purposes into a Capital sum to be provided by the College out of money belonging to it, and not produced by any sale of lands or hereditaments made after the passing of this Act :

(3.) For assigning a portion of the Revenues or property of the College, as a contribution to the Common Fund or otherwise, for encouragement of instruction in the University in any art or science or other branch of learning, or for the maintenance and benefit of persons of known ability and

learning studying or making researches in any art or science or other branch of learning in the University :

(5.) For providing out of the Revenues of the College for payments to be made, under the supervision of the University, for work done or investigations conducted in any branch of learning or inquiry connected with the studies of the University within the University :

Provision for Accounts, Audit, Borrowing, and Leases.

21. The Commissioners, in Statutes made by them, shall from time to time make provision—

(1.) For the form of Accounts of the University and of a College relating to funds administered either for general purposes, or in trust, or otherwise, and for the audit and publication thereof :

(2.) For the publication of Accounts of Receipts and Expenditure of money raised under the borrowing powers of the University or of a College :

And the Commissioners, in Statutes made by them, may from time to time, if they think fit, make provision—

(3.) For regulating the exercise of the borrowing powers of the University or of a College :

(4.) For regulating the conditions under which beneficial leases may be renewed by the University or a College.

In accordance with this power conferred on them, the University of Oxford Commissioners have made a Statute for each College concerning the Form of Accounts and their Audit, and the following is the form almost universally followed :—

We, the University of Oxford Commissioners, under and by virtue of all and every the powers in this behalf enabling us contained in the Universities of Oxford and Cambridge Act, 1877, do by this present Instrument under our Seal make the Statute hereunto annexed for.....College, in the University of Oxford, concerning the Form of Accounts of the College, and the Audit and Publication thereof :—

A Statute for.....College, concerning the Form of Accounts of the College and the Audit and Publication thereof.

Accounts.

1. The (Dean, President, Master, Principal, Warden, &c.) and

Fellows shall cause proper Books of Account to be kept, in which shall be entered—

(i.) All Receipts and Payments on account of or authorised by the College, whether from and to persons being members of the College or from and to any other person whomsoever;

(ii.) All Debts and Liabilities contracted by or to the College or by or to any person on account or by authority of the College;

(iii.) A Statement in detail of all property of every kind or description held by or in trust for the College.

2. The Books shall include—

(*a.*) A Register of all the property of the College, showing the description, situation, amount, rental or other annual value of every property; the fixed charges on it (if any); and in the case of Stocks or other Securities the names in which and the accounts to which the same are standing:

(*b.*) A Roll of Rents, Rentcharges, Dividends, and other annual income, showing the amounts receivable and those actually received during the year, and the arrears (if any) at the beginning and at the close of the Account;

(*c.*) A Cash Book or Cash Books, containing a record of all Cash transactions;

(*d.*) A Ledger or Ledgers;

And also such other books as may be necessary or convenient for regularly recording all such Receipts and Payments and other matters and things as aforesaid, and for enabling the several Accounts to be duly checked and balanced, and the correctness of the Abstracts, for the publication of which provision is hereinafter made, to be ascertained and verified.

3. Separate Accounts shall be kept of all property held in trust for any purpose other than the general purposes of the College, and of Receipts and Payments in respect of such property.

Audit.

4. The College Accounts shall be audited once at least in every year. The.....and Fellows shall appoint for that purpose an Auditor or Auditors. One person so appointed shall be either a professional Accountant carrying on business in London or Westminster, or (if the.....and Fellows think fit) a person conversant with Accounts approved by the Permanent Secretary to Her Majesty's Treasury. The Auditor or Auditors shall report in writing to the.....and Fellows whether the Accounts of the College are duly kept in proper Books of Account in conformity with the provisions of this Statute, and whether the Abstracts and Balance Sheet prepared pursuant to the provisions of this Statute contain a full and true Account of the financial condition of the College. It shall be lawful for the Auditors or any Auditor to report specially as to any payment which they or he may judge to have been made without sufficient authority. The expenses of the Audit (including payment to any clerks or clerk whose

assistance the Auditor or Auditors may require) shall be paid out of the revenues of the College.

5. The.....and Fellows shall in every year cause to be prepared and delivered to the Registrar of the University for publication such Abstracts, Statements, and other matters relating to the Accounts of the College as by any Statute made or to be made for the University under the powers of the Universities of Oxford and Cambridge Act, 1877, they are or shall be required to furnish; and shall also furnish to the Curators of the University Chest such information as may be required for determining the amount to be paid by the College to the Curators as a contribution for University purposes under any Statute made under the like authority. Abstracts, &c., for Publication

The Cambridge University Commissioners, as mentioned in Chapter I., have not appointed professional Auditors for either the University Chest or for Colleges. The following Statute was made by them under the Act of 1887 :—

The Accounts of all moneys received and expended on behalf of the University, relating to funds administered for general purposes, or in trust or otherwise, shall be audited once in every year.

The time of such audit, the number of Auditors, and the mode of their appointment shall be determined by Grace.

An Abstract of the Accounts shall be made after the Audit, as nearly as practicable in the form contained in the Schedule attached to this Chapter. Such Abstract shall be signed by the Auditors, and published to the University by the Vice-Chancellor.

The Accounts of receipt and expenditure of money raised under the borrowing powers of the University shall be annually audited and published to the University.

The County Courts Act, 1888.

(51 & 52 Vict., c. 43.)

[13th August, 1888.]

1. This Act may be cited as "The County Courts Act, 1888." Short Title.

171. The Treasurer of every Court shall from time to time audit and settle the Accounts of the Registrar and other Officers of the Court, and shall receive the balances of the various moneys which such Registrar and other Audit of Registrar's Accounts.

Officers shall have received under this Act; and the Registrar shall pay over to the Treasurer of the Court, at such times as he may be directed by the Treasury, the moneys received by him as a Registrar.

The Sheriffs Act, 1887.

(50 & 51 Vict., c. 55.)

[16th September, 1887.]

Short Title.

1. This Act may be cited as "The Sheriffs Act, 1887."

Transmission of Accounts of Sheriff.

21.—(1.) Every Sheriff shall within two months after the expiration of his office, or in case of the death of any Sheriff the Under-Sheriff by him appointed shall within two months next after the death of such Sheriff, transmit to the Treasury a just and true Account under his hand :—

(*a.*) Of all sums received by such Sheriff for the use of the Crown, and of all sums paid or claimed by him or on his behalf (including such sums as have been usually inserted in the bill of cravings), with all such particulars as are needful to explain the same, and

(*b.*) Of the names and residences of all persons incurring fines, issues, amerciaments, forfeited recognizances, or sums of money which he has been authorised to levy by virtue of any writ issued to him or to any predecessor in office, and if the same have not been levied the causes of their not having been levied ;

and the Treasury may grant a Warrant for the allowance of the sums so paid or claimed in the Account, or for the payment of such sum of money in respect thereof as they may think reasonable :

(2.) Provided as follows :—

(*a.*) A Sheriff or Under-Sheriff shall not be imprisoned upon any process for not finishing his Accounts in due time, or for any contempt or neglect in relation

to his Accounts, except by a Warrant naming such Sheriff or Under-Sheriff and specifying his offence, and issued by one of the Judges of the High Court of Justice ;

(*b.*) An Under-Sheriff shall not be personally responsible for any sum received by a deceased Sheriff, but the same shall be answered by the representatives of the deceased Sheriff or otherwise in due course of law ; and

(*c.*) Nothing in this section shall alter the right of any body corporate or person under any Charter to receive any fines or other sums.

Audit of Accounts of Sheriff.

22.—(1.) All Accounts of Sheriffs and their Under-Sheriffs which are transmitted to the Treasury under this Act shall be examined and audited by such persons and in such manner as the Treasury may from time to time by warrant direct; and the Treasury may by any Warrant make such provisions in relation to the transmission, examination, verification, and audit of such Accounts, and for ascertaining and determining the balances due from and the discharge of the persons accounting, as to the Treasury may seem proper.

(2.) Every such Warrant shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament be sitting, and if Parliament be not sitting then within fourteen days after the next meeting of Parliament.

The Judicial Trustees Act, 1896.

(59 & 60 Vict., c. 35.)

[14th August, 1896.]

1.—(4.) The Court may, either on request or without request, give to a Judicial Trustee any general or special directions in regard to the trust or the administration thereof.

(5.) There may be paid to a Judicial Trustee out of the

trust property such remuneration not exceeding the prescribed limits, as the Court may assign in each case, subject to any rules under this Act respecting the application of such remuneration where the Judicial Trustee is an official of the Court, and the remuneration so assigned to any Judicial Trustee shall, save as the Court may for special reasons otherwise order, cover all his work and personal outlay.

The following Rules under the Judicial Trustee Rules, 1897, are applicable to this Section :—

Remuneration of Judicial Trustee.

17.—(1.) Where a Judicial Trustee is to be remunerated the remuneration to be paid to him shall be fixed by the Court, and may be altered by the Court from time to time.

(2.) In fixing the remuneration, regard shall be had to the duties entailed upon the Judicial Trustee by the Trust.

(3.) The Court may make, if it thinks fit, special allowances to Judicial Trustees for the following matters, to be paid out of the Trust property—

(*a.*) For the Statement of Trust Property prepared by a Judicial Trustee on his appointment, an allowance not exceeding ten guineas ;

(*b.*) For realising and reinvesting Trust Property, where the property is realised for the purpose of reinvestment, an allowance not exceeding one and half per centum on the amount realised and reinvested ;

(*c.*) For realising or investing Trust Property in any other case, an allowance not exceeding one per centum on the amount realised or invested.

(4.) The Court may also in any year make a special allowance to a Judicial Trustee, if satisfied that in that year more trouble has been thrown upon the Trustee by reason of exceptional circumstances than would ordinarily be involved in the administration of the Trust.

(5.) Where a Trustee is remunerated, any allowance under this Rule may be paid in addition to his remuneration.

(6.) Any remuneration or allowance payable to a Judicial Trustee shall be paid or allowed to him at such times and in such manner as the Court directs.

(6.) Once in every year the Accounts of every trust, of which a Judicial Trustee has been appointed, shall be audited, and a Report thereon made to the Court by the prescribed persons, and, in any case where the Court shall so direct, an inquiry into the administration by a Judicial

Trustee of any trust, or into any dealing or transaction of a Judicial Trustee, shall be made in the prescribed manner.

The following Rules under the Judicial Trustee Rules, 1897, are applicable :—

Accounts and Audit.

14.—(1.) The Court shall give directions to a Judicial Trustee as to the date to which the Accounts of the Trust are to be made up in each year, and shall fix in each year the time after that date within which the Accounts are to be delivered to it for audit.

(2.) The Accounts shall in ordinary cases be audited by the officer of the Court, but the Court, if it considers that the Accounts are likely to involve questions of difficulty, may refer them to a Professional Accountant for report, and order the payment to him of such amount in respect of his report as the Court may fix.

Filing and Inspection of Accounts.

15.—(1.) The Accounts of any Trust of which there is a Judicial Trustee, with a note of any corrections made upon the audit, shall be filed as the Court directs.

(2.) The Judicial Trustee shall send a copy of the Accounts or, if the Court thinks fit, of a Summary of the Accounts, of the Trust to such beneficiaries or other persons as the Court thinks proper.

(3.) The Court may, if it thinks fit, having regard to the nature of the relation of the applicant to the Trust, allow any person applying to inspect the filed Accounts so to inspect them on giving reasonable notice to the officer of the Court.

Deductions allowed.

16. A Judicial Trustee shall, unless the Court otherwise directs, be allowed on the audit of his Accounts deductions made on account of his remuneration and allowances under these Rules, and also on account of the fees paid by him under these Rules, but shall not be allowed any deduction on account of the expenses of professional assistance, or his own work or personal outlay, unless the deduction has been authorised by the Court in pursuance of the Act or the Court is satisfied that the deduction is justified by the strict necessity of the case.

The following Rules should also be borne in mind by the Auditor :—

(9.) Any premium payable by a Judicial Trustee to any Guarantee Company on account of his security may, if the Court so directs, be paid out of the Trust property.

Trust Account at Bank and Custody of Documents.

10.—(1.) When a Judicial Trustee is appointed, a separate account for receipts and payments on behalf of the Trust must be kept in the names of the Trustees at some bank approved by the Court.

(2.) All title deeds and all certificates and other documents which are evidence of the title of the Trustee to any of the Trust property shall be deposited either with that bank or in such other custody as the Court directs.

Judicial Trustee not to keep money in his hands.

11. A Judicial Trustee must pay all money coming into his hands on account of his Trust without delay to the Trust Account at the bank, and if he keeps any such money in his hands for a longer time than the Court considers necessary, shall be liable to pay interest upon it at such rate not exceeding five per centum as the Court may fix for the time during which the money remains in his hands.

Short Title.

(6.—1.) This Act may be cited as "The Judicial Trustees Act, 1896."

The Intestates' Estates Act, 1890.

(53 & 54 Vict., c. 29.)

[25th July, 1890.]

Intestate's Estate not exceeding £500.

1. The real and personal estates of every man who shall die intestate after the first day of September one thousand eight hundred and ninety leaving a widow but no issue shall, in all cases where the net value of such real and personal estates shall not exceed five hundred pounds, belong to his widow absolutely and exclusively.

Intestate's Estate exceeding £500.

2. Where the net value of the real and personal estates in the preceding section mentioned shall exceed the sum of five hundred pounds, the widow of such intestate shall be entitled to five hundred pounds part thereof absolutely and exclusively, and shall have a charge upon the whole of such real and personal estates for such five hundred pounds, with interest thereon from the date of the death of the intestate at four per cent. per annum until payment.

How charge to be borne.

3. As between the real and personal representatives of such intestate, such charge shall be borne and paid in proportion to the values of the real and personal estates respectively.

4. The provision for the widow intended to be made by this Act shall be in addition and without prejudice to her interest and share in the residue of the real and personal estates of such intestate remaining after payment of the sum of five hundred pounds, in the same way as if such

residue had been the whole of such intestate's real and personal estates and this Act had not been passed. How Realty to be valued.

5. The net value of such real estates as aforesaid shall for the purposes of this Act be estimated in the case of a fee simple upon the basis of twenty years purchase of the annual value by the year at the date of the death of the intestate as determined by law for the purposes of property tax, less the gross amount of any mortgage or other principal sum charged thereon, and less the value of any annuity or other periodical payment chargeable thereon, to be valued according to the tables and rules in the Schedule annexed to the Statute sixteenth and seventeenth Victoria, chapter fifty-one, and in the case of an estate for a life or lives according to the said tables and rules.

6. The net value of such personal estate as aforesaid shall be ascertained by deducting from the gross value thereof all debts, funeral and testamentary expenses of the intestate, and all other lawful liabilities and charges to which the said personal estate shall be subject. How Personalty to be valued.

The phrase "testamentary expenses" in this Section is a slip in the drafting of the Act, and means expenses of letters of administration and of administration generally.—*In re Twigg's Estate. Twigg v. Black* [1892] 1 Ch. 579.

7. This Act may be cited as "The Intestates' Estates Act, 1890." Short Title.

8. This Act shall not extend to Scotland. Extent of Act.

The Apportionment Act, 1870.

(33 & 34 Vict., c. 35.)

[1st August, 1870.]

1. This Act may be cited for all purposes as "The Apportionment Act, 1870." Short Title.

2. From and after the passing of this Act all Rents, Annuities, Dividends, and other periodical payments in the nature of income (whether reserved or made payable Rents, &c., apportionable in respect of time.

under an instrument in writing or otherwise) shall, like interest on money lent, be considered as accruing from day to day, and shall be apportionable in respect of time accordingly.

The Word "Dividends" includes payments by way of bonus or surplus profits to the shareholders of a Public Company, even though such payments may be only occasional and not strictly periodical.—*In re Griffith. Carr v. Griffith*, 12 Ch. D. 655.

The Act does not apply to rent, annuities, dividends, and other payments in the nature of income, which have accrued due before the happening of the event by reason of which it is proposed to apply the Act; the Act, therefore, does not apply to rent payable in advance. —*Ellis v. Rowbotham* [1900] 1 Q.B. 741.

(3.) If under any such Warrant it is necessary for a Sheriff or Under-Sheriff to take any oath to any Account or any matter relating thereto, such oath, except when the Treasury require his personal examination before the person appointed by them to audit, may be sworn before any Judge of Her Majesty's High Court of Justice, or before any Master of the Supreme Court of Judicature, or before any Commissioner for taking oaths in the Supreme Court of Judicature, or before any Justice of the Peace.

(4.) If any Officer, clerk, or other person concerned in the passing of Sheriffs' Accounts by his wilful act or default hinders any Sheriff in passing his Accounts, or obtaining his "Quietus," he shall make such satisfaction to the party aggrieved as may be ordered by Her Majesty's High Court of Justice, or any Judge thereof, on complaint made in such summary manner as the said Court may order.

Interpretation of terms.

5. In the construction of this Act :—

The word "Rents" includes Rent service, Rentcharge, and Rent seck, and also Tithes and all periodical payments or renderings in lieu of or in the nature of Rent or Tithe.

The word "Annuities" includes salaries and pensions.

The word "Dividends" includes (besides Dividends strictly so called) all payments made by the name of dividend, bonus, or otherwise out of the revenue of trading or other Public Companies, divisible

between all or any of the members of such respective Companies, whether such payments shall be usually made or declared at any fixed times or otherwise; and all such divisible revenue shall, for the purposes of this Act, be deemed to have accrued by equal daily increment during and within the period for or in respect of which the payment of the same revenue shall be declared or expressed to be made; but the said word "Dividend" does not include payments in the nature of a return or reimbursement of capital.

Act not to apply to Policies of Assurance;

6. Nothing in this Act contained shall render apportionable any annual sums made payable in Policies of Assurance of any description.

nor where stipulation made to the contrary.

7. The provisions of this Act shall not extend to any case in which it is or shall be expressly stipulated that no apportionment shall take place.

Every Company registered under the Companies Act, 1862, is a "Public Company" within the meaning of the term in this Act.

A bequest of shares in a limited Company, coupled with a declaration that the shares so bequeathed shall carry the dividend accruing thereon at the testator's death, operates as an exclusion of the Apportionment Act.

A Testator bequeathed certain shares in a Limited Company to Trustees upon trust to sell, with a power of postponement, and stand possessed of the proceeds and the shares remaining unsold upon trust to receive the annual produce thereof and hold the same in trust for the Testator's children and remoter issue in succession, and declared that every share bequeathed by his will should carry the dividend accruing thereon at his death. The dividends were payable annually. It was held by the Court of Appeal that the Trustees took the whole of the dividend for the year in which the Testator died without apportionment, and that such dividend was payable as income to the tenants for life under the will.— *In re Lysaght. Lysaght v. Lysaght* [1898] 1 Ch. 115.

A Testator directed the whole of the income of stocks, out of which his wife was entitled to an annuity, should be paid to her during widowhood. It was held that he had expressly stipulated, within the meaning of Section 7, that the Apportionment Act should not apply. —*In re Meredith. Stone v. Meredith* [1898] W.N. 48 (2).

The Trustee Act, 1893.

(56 & 57 Vict., c. 53.)

[22nd September, 1893.]

Authorised Investments.

1. A Trustee may, unless expressly forbidden by the instrument (if any) creating the trust, invest any trust funds in his hands, whether at the time in a state of investment or not, in manner following, that is to say :

The funds of a Benefit Building Society invested in the name of the Society, or in the names of Trustees who have no power of investment independently of the Act, are not "Trust Funds" within this Section. —*In re National Permanent Mutual Benefit Building Society*, 43 Ch. D. 431.

(*a.*) In any of the Parliamentary Stocks or Public Funds or Government Securities of the United Kingdom :

"Public Securities" have been distinguished from "Government Securities."—*Sampayo v. Gould*, 12 Sim. 435.

(*b.*) On Real or Heritable Securities in Great Britain or Ireland :

It is a breach of trust for Trustees, having the ordinary power to invest on "Real Securities," to invest on a contributory mortgage in the absence of an express authority.—*Webb v. James*, 39 Ch. D. 660. Trustees are not justified in advancing trust moneys on a second mortgage—*Drosier v. Nelson*, W.N. 1876, 225—or on mortgages of leaseholds.—*Re Chennell*, 8 Ch. D. 492.

(*c.*) In the Stock of the Bank of England or the Bank of Ireland :

(*d.*) In India Three and a-Half per cent. Stock and India Three per cent. Stock, or in any other Capital Stock which may at any time hereafter be issued by the Secretary of State in Council of India under the authority of Act of Parliament, and charged on the revenues of India :

(*e.*) In any Securities the interest of which is for the time being guaranteed by Parliament :

(*f.*) In Consolidated Stock created by the Metropolitan Board of Works, or by the London County Council,

or in Debenture Stock created by the Receiver for the Metropolitan Police District :

(*g.*) In the Debenture or Rentcharge, or Guaranteed or Preference Stock of any Railway Company in Great Britain or Ireland incorporated by special Act of Parliament, and having during each of the ten years last past before the date of investment paid a dividend at the rate of not less than three per centum per annum on its ordinary stock :

See Section 2 (2).

(*h.*) In the Stock of any Railway or Canal Company in Great Britain or Ireland whose undertaking is leased in perpetuity or for a term of not less than two hundred years at a fixed rental to any such Railway Company as is mentioned in Subsection (*g*), either alone or jointly with any other Railway Company :

(*i.*) In the Debenture Stock of any Railway Company in India the interest on which is paid or guaranteed by the Secretary of State in Council of India :

See Section 2 (2).

(*j.*) In the "B" Annuities of the Eastern Bengal, the East Indian, and the Scinde Punjaub and Delhi Railways, and any like Annuities which may at any time hereafter be created on the purchase of any other Railway by the Secretary of State in Council of India, and charged on the revenues of India, and which may be authorised by Act of Parliament to be accepted by Trustees in lieu of any Stock held by them in the purchased Railway ; also in Deferred Annuities comprised in the Register of Holders of Annuity Class D, and Annuities comprised in the Register of Annuitants Class C, of the East Indian Railway Company :

(*k.*) In the Stock of any Railway Company in India upon which a fixed or minimum dividend in sterling is paid or guaranteed by the Secretary of State

in Council of India, or upon the capital of which the interest is so guaranteed :

See Section 2 (2).

(*l.*) In the Debenture or Guaranteed or Preference Stock of any Company in Great Britain or Ireland, established for the supply of water for profit, and incorporated by Special Act of Parliament or by Royal Charter, and having during each of the ten years last past before the date of investment paid a dividend of not less than five pounds per centum on its Ordinary Stock.

See Section 2 (2).

(*m.*) In nominal or inscribed Stock, issued or to be issued by the Corporation of any Municipal Borough having, according to the returns of the last census prior to the date of investment, a population exceeding fifty thousand, or by any County Council, under the authority of any Act of Parliament or Provisional Order :

See Section 2 (2).

(*n.*) In nominal or inscribed Stock, issued or to be issued by any Commissioners incorporated by Act of Parliament for the purpose of supplying water, and having a compulsory power of levying rates over an area having, according to the returns of the last census prior to the date of investment, a population exceeding fifty thousand, provided that each of the ten years last past before the date of investment the Rates levied by such Commissioners shall not have exceeded eighty per centum of the amount authorised by law to be levied :

(*o.*) In any of the Stocks, Funds, or Securities for the time being authorised for the investment of cash under the control or subject to the order of the High Court ;

The Stocks, &c., are regulated by Order XXII., Rule 17, of Rules of the Supreme Court.

and may also from time to time vary any such investment.

Purchase at a premium of redeemable Stocks.

2.—(1.) A Trustee may under the powers of this Act invest in any of the Securities mentioned or referred to in Section one of this Act, notwithstanding that the same may be redeemable, and that the price exceeds the redemption value.

(2.) Provided that a Trustee may not under the powers of this Act purchase at a price exceeding its redemption value any Stock mentioned or referred to in Subsections (*g*), (*i*), (*k*), (*l*), and (*m*) of Section one, which is liable to be redeemed within fifteen years of the date of purchase at par or at some other fixed rate, or purchase any such Stock as is mentioned or referred to in the subsections aforesaid, which is liable to be redeemed at par or at some other fixed rate, at a price exceeding fifteen per centum above par or such other fixed rate.

The restrictions mentioned in this Subsection apply to Colonial Stock. See Colonial Stock Act, 1900, Section 2.

Discretion of Trustees.

(3.) A Trustee may retain until redemption any redeemable Stock, Fund, or Security which may have been purchased in accordance with the powers of this Act.

3. Every power conferred by the preceding Sections shall be exercised according to the discretion of the Trustee, but subject to any consent required by the instrument, if any, creating the Trust with respect to the investment of the Trust Funds.

The Court will not as a rule control a Trustee's discretion as to investments.—*Lee v. Young*, I.Y. & C.C.C. 532.

Application of preceding Sections.

4. The preceding Sections shall apply as well to Trusts created before as to Trusts created after the passing of this Act, and the powers thereby conferred shall be in addition to the powers conferred by the instrument, if any, creating the Trust.

Enlargement of express Powers of Investment.

5.—(1.) A Trustee having power to invest in real Securities, unless expressly forbidden by the instrument creating the Trust, may invest and shall be deemed to have always had power to invest—

(*a*.) On mortgage of property held for an unexpired term of not less than two hundred years, and not

subject to a reservation of rent greater than a shilling a year, or to any right of redemption or to any condition for re-entry, except for non-payment of rent ; and

(*b.*) On any charge, or upon mortgage of any charge, made under the Improvement of Land Act, 1864.

27 & 28 Vict., c. 114.

(2.) A Trustee having power to invest in the Mortgages or Bonds of any Railway Company or of any other description of Company may, unless the contrary is expressed in the instrument authorising the investment, invest in the Debenture Stock of a Railway Company or such other Company as aforesaid.

(3.) A Trustee having power to invest money in the Debentures or Debenture Stock of any Railway or other Company may, unless the contrary is expressed in the instrument authorising the investment, invest in any nominal Debentures or nominal Debenture Stock issued under the Local Loans Act, 1875.

38 & 39 Vict., c. 83.

(4.) A Trustee having power to invest money in Securities in the Isle of Man, or in Securities of the Government of a Colony, may, unless the contrary is expressed in the instrument authorising the investment, invest in any Securities of the Government of the Isle of Man, under the Isle of Man Loans Act, 1880.

43 & 44 Vict., c. 8.

(5.) A Trustee having a general power to invest Trust moneys in or upon the security of Shares, Stock, Mortgages, Bonds, or Debentures of Companies incorporated by or acting under the authority of an Act of Parliament may invest in, or upon the security of, Mortgage Debentures duly issued under and in accordance with the provisions of the Mortgage Debenture Act, 1865.

28 & 29 Vict., c. 78.

A "Nominal Debenture" is a Debenture in which the principal sum is made payable to a person named, his Executors, Administrators, or Assigns. "Nominal Debenture Stock" is Debenture Stock in respect of which a Stock Certificate to bearer has not been issued.

Power to invest, notwithstanding Drainage Charges.

6. A Trustee having power to invest in the purchase of land or on mortgage of land may invest in the purchase, or on mortgage of any land, notwithstanding the same is

charged with a rent under the powers of the Public Money Drainage Acts, 1846 to 1856, or the Landed Property Improvement (Ireland) Act, 1847, or by an absolute order made under the Improvement of Land Act, 1864, unless the terms of the Trust expressly provide that the land to be purchased or taken in mortgage shall not be subject to any such prior charge.

Trustees not to convert Inscribed Stock into Certificates to Bearer.

7.—(1.) A Trustee, unless authorised by the terms of his Trust, shall not apply for or hold any Certificate to bearer issued under the authority of any of the following Acts, that is to say :

(*a.*) The India Stock Certificate Act, 1863 ;

(*b.*) The National Debt Act, 1870 ;

(*c.*) The Local Loans Act, 1875 ;

(*d.*) The Colonial Stock Act, 1877.

Loans and Investments by Trustees not chargeable as Breaches of Trust.

8.—(1.) A Trustee lending money on the security of any property on which he can lawfully lend shall not be chargeable with breach of trust by reason only of the proportion borne by the amount of the Loan to the value of the property at the time when the Loan was made, provided that it appears to the Court that in making the Loan the Trustee was acting upon a report as to the value of the property made by a person whom he reasonably believed to be an able practical surveyor or valuer instructed and employed independently of any owner of the property, whether such surveyor or valuer carried on business in the locality where the property is situate or elsewhere, and that the amount of the Loan does not exceed two equal third parts of the value of the property as stated in the report, and that the Loan was made under the advice of the surveyor or valuer expressed in the report.

(2.) A Trustee lending money on the security of any leasehold property shall not be chargeable with breach of trust only upon the ground that in making such Loan he dispensed either wholly or partly with the production or investigation of the lessor's title.

(3.) A Trustee shall not be chargeable with breach of trust only upon the ground that in effecting the purchase

of or in lending money upon the security of any property he has accepted a shorter title than the title which a purchaser is, in the absence of a special contract, entitled to require, if in the opinion of the Court the title accepted be such as a person acting with prudence and caution would have accepted.

(4.) This section applies to transfers of existing Securities as well as to new Securities, and to investments made as well before as after the commencement of this Act, except where an action or other proceeding was pending with reference thereto on the twenty-fourth day of December one thousand eight hundred and eighty-eight.

The Valuation referred to in (1) should be made for the purposes of the investment, and the Surveyor should be employed by the Trustees themselves.—*Cann v. Wilson*, 39 Ch. D. 39.

This Section will not help Trustees who take hazardous Securities. —*Blyth v. Fladgate* [1891] 1 Ch. 337.

Power to Insure Building.

18.—(1.) A Trustee may insure against loss or damage by fire any building or other insurable property to any amount (including the amount of any insurance already on foot) not exceeding three equal fourth parts of the full value of such building or property, and pay the premiums of such insurance out of the income thereof or out of the income of any other property subject to the same Trusts, without obtaining the consent of any person who may be entitled wholly or partly to such income.

The Colonial Stock Act, 1900.

(63 & 64 Vict., c. 62.)

[8th August, 1900.]

Power for Trustees to invest in Colonial Stock.

2. The Securities in which a Trustee may invest under the powers of the Trustee Act, 1893, shall include any Colonial Stock which is registered in the United Kingdom in accordance with the provisions of the Colonial Stock Acts, 1877 and 1892, as amended by this Act, and with respect to which there have been observed such conditions

(if any) as the Treasury may by order notified in the *London Gazette* prescribe.

The restrictions mentioned in Section two, Subsection (2) of the Trustee Act, 1893, with respect to the Stocks therein referred to, shall apply to Colonial Stock. The Treasury shall keep a list of any Colonial Stocks in respect of which the provisions of this Act are for the time being complied with, and shall publish the list in the *London* and *Edinburgh Gazettes*, and in such other manner as may give the public full information on the subject.

4. This Act may be cited as "The Colonial Stock Act, 1900." Short Title.

The Larceny Act, 1861.

(24 & 25 Vict., c. 96.)

[6th August, 1861.]

81. Whosoever, being a Director, Member, or Public Officer of any Body Corporate or Public Company, shall fraudulently take or apply for his own use or benefit, or for any use or purposes other than the use or purposes of such Body Corporate or Public Company, any of the property of such Body Corporate or Public Company, shall be guilty of a misdemeanour, and being convicted thereof shall be liable, at the discretion of the Court, to any of the punishments which the Court may award as hereinbefore last mentioned. Directors, &c., Fraudulently appropriating Property.

82. Whosoever, being a Director, Public Officer, or Manager of any Body Corporate or Public Company, shall as such receive or possess himself of any of the property of such Body Corporate or Public Company otherwise than in payment of a just debt or demand, and shall, with intent to defraud, omit to make, or to cause or direct to be made, a full and true entry thereof in the Books and Accounts of such Body Corporate or Public Company, shall be guilty of a misdemeanour, and being convicted thereof shall be Or keeping Fraudulent Accounts.

liable, at the discretion of the Court, to any of the punishments which the Court may award as hereinbefore last mentioned.

Or wilfully destroying Books.

83. Whosoever, being a Director, Manager, Public Officer, or member of any Body Corporate or Public Company, shall, with intent to defraud, destroy, alter, mutilate, or falsify any book, paper, writing, or valuable security belonging to the Body Corporate or Public Company, or make or concur in the making of any false entry, or omit or concur in omitting any material particular, in any Book of Account or other document, shall be guilty of a misdemeanour, and being convicted thereof shall be liable, at the discretion of the Court, to any of the punishments which the Court may award as hereinbefore last mentioned.

Or publishing Fraudulent Statements.

84. Whosoever, being a Director, Manager, or Public Officer of any Body Corporate or Public Company, shall make, circulate, or publish, or concur in making, circulating, or publishing, any written Statement or Account which he shall know to be false in any material particular, with intent to deceive or defraud any member, shareholder, or creditor of such Body Corporate or Public Company, or with intent to induce any person to become a shareholder or partner therein, or to intrust or advance any property to such Body Corporate or Public Company, or to enter into any security for the benefit thereof, shall be guilty of a misdemeanour, and being convicted thereof shall be liable, at the discretion of the Court, to any of the punishments which the Court may award as hereinbefore last mentioned.

To be punished.

The Falsification of Accounts Act, 1875.

(38 & 39 Vict., c. 24.)

[29th June, 1875.]

Punishment for Falsification of Accounts, &c.

1. If any Clerk, Officer, or Servant, or any person employed or acting in the capacity of a Clerk, Officer, or Servant, shall wilfully and with intent to defraud, destroy, alter, mutilate, or falsify any Book, paper, writing,

valuable security, or Account which belong to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or shall wilfully and with intent to defraud, make, or concur in making, any false entry in, or omit or alter, or concur in omitting or altering, any material particular from or in any such Book, or any Document or Account, then in every such case the person so offending shall be guilty of a misdemeanour, and be liable to be kept in penal servitude for a term not exceeding seven years, or to be imprisoned with or without hard labour for any term not exceeding two years.

Intention to Defraud sufficient. Indictment.

2. It shall be sufficient in any indictment under this Act to allege a general intent to defraud, without naming any particular person intended to be defrauded.

Act to be read with Larceny Act, 1861.

3. This Act shall be read as one with the Act of the twenty-fourth and twenty-fifth of Her Majesty, Chapter ninety-six.

Short Title.

4. This Act may be cited as "The Falsification of Accounts Act, 1875."

CHAPTER V.

THE PREPARATION OF THE ACCOUNTS OF A COMPANY FOR THE PURPOSE OF AUDIT.

Duty of the Directors and not the Auditors to prepare the Accounts—Auditors not liable to Directors—Form of Accounts to be submitted—Preliminary preparations—Stock-in-trade—Investments—Trial Balance—Difference between Trial Balance and Balance Sheet—Danger of relying on a Cash Account only—Employment of professional Accountants in preparation of Statements—Depreciation—Special or unusual Expenditure—Mortgaged Property—Accounts to be passed at Special Board Meeting—To be afterwards submitted to Auditors—Issue of Accounts to Shareholders.

Preparation of the Accounts of a Company.

THE duty of the preparation of the Accounts of a Company to be laid before the Shareholders devolves upon the Directors, and under them to whichever Officials of the permanent staff they may appoint for that purpose. When these Accounts are prepared they have to be formally approved of by the Directors at a Board Meeting, who then intimate to the Auditors that the Accounts are ready for their examination. The preparation of these Accounts, therefore, forms no part of the duties of the Auditors, but in many Companies it is the practice for the Directors to give them instructions to prepare the Accounts.

In this case, however, the preparation of the Accounts is not performed by them as Auditors, but simply as professional Accountants; they are, of course, paid a special fee for this duty, which is quite independent of their fee as Auditors, and they are consequently responsible as professional men to the Directors of the Company for the correct performance of their duties.

Auditors not liable to Directors.

In no sense, however, are they liable to the Directors as Auditors for the correctness of the preparation of the Accounts, and, further, under no circumstances whatever is the responsibility for the correctness of the preparation shifted from the Directors of the Company. The contrary is frequently alleged by Directors, and their contention is accepted

by Shareholders, but it must be clear from the words which appear in the Acts of Parliament, both public and private, and in Articles of Association of Companies, that the Accounts submitted to the Shareholders are the Accounts of the Directors, and that the duty of Auditors is strictly confined to the certification of their correctness or otherwise, and in fact the duties of the Auditors do not commence until the Accounts have been formally handed to them by the Directors, for examination by them on behalf of the Shareholders.

Form of Accounts usually in discretion of Directors.

Unless, therefore, the form of the Accounts be specially prescribed by Act of Parliament or by Articles of Association, the Statements which are to be issued to the Shareholders are in the discretion of the Directors, as are also the headings under which the various items of Receipt and Expenditure are to be placed in the Revenue or Profit and Loss Account, and the headings under which the Liabilities and the Assets of the Company are placed on the Debtor or Creditor side of the Balance Sheet, with these exceptions, that where the Auditor is required to certify to the Balance Sheet being full and fair he has undoubtedly some right to require that a Balance Sheet, which in his opinion is unduly meagre, be amplified.

Date on which Books are to be closed.

The date on which the Books of a Company are to be closed is frequently prescribed, but if not so prescribed the date is left to the Directors, provided that there be an Annual Meeting of the Shareholders summoned once a year. The period embraced by the Accounts need not necessarily be those of an exact year; as a rule, however, the Accounts of a Company are made up on the same date in each year, except in those comparatively few cases where the Accounts are submitted to the Shareholders half-yearly.

In the Articles of some Companies it is prescribed that the Accounts submitted at the Annual Meeting shall be made up to a date within a certain time of that meeting, usually not exceeding three months, in which case, where the Company has branches, either at home or abroad, great expedition has frequently to be used in the preparation of

the Accounts after the receipt of the returns. In all cases, however, it is desirable for the Ledgers to be posted to date, and in the offices of many Companies it is the practice for a trial balance to be taken out monthly, and agreed, so that, should there be any error, it can at once be sought for and discovered, instead of having to wait until the end of the year.

Form of Accounts.

Where the form in which the Accounts to be presented to the Shareholders is prescribed by Act of Parliament, as is the case of Railway Companies, Life Assurance Companies, and Building Societies, these forms must be exactly followed; but where it is left to the discretion of the Directors they are then entitled to present them in any shape they may think proper to the Shareholders, or in as full or as condensed a form as they may think proper. But even in these cases there are occasionally requirements prescribed by private Act of Parliament, or in the case of Limited Companies by the Articles of Association, which of course have to be as much attended to as the enactments of a public Act.

Those who have to prepare the Accounts must also have regard to any regulations which may exist for the form of the Certificate to be affixed by the Auditor; it must be evident that where an Auditor has to certify that a Balance Sheet is a full and fair Balance Sheet, he will be unable to do so should the Accounts presented to him be too much condensed.

Preliminary preparations.

Having decided on the date on which the financial period shall end, preparation should be made anterior to that date for balancing the books, and for this purpose they should all be written up to date, and, where possible, if there should be any fear of the books not balancing at the first attempt, any spare time the clerks may have should be devoted to the calling-over of the postings, checking the additions, &c., and on the evening of the day the Cash Book should be ruled off and balanced, and a reconciliation should be at once prepared with the Bankers' Pass Book, showing the Cheques drawn on the Company's

account but not presented at the Bankers, and the cheques paid in but not cleared. It is desirable, of course, to draw as few cheques as possible on the last few days of the period.

Vouchers. The Vouchers, if it has not been the custom to have them periodically arranged, should now be sorted, and either arranged in neat bundles in the order of the Cash Book entries, or else pasted in a guard book in the same order.

It must be remembered that simple acknowledgments of money received are not what Auditors understand as vouchers. Many Companies, especially large ones, have their own printed form of receipt, which they require all persons to whom they make payments to sign. These receipts by themselves are practically of very little use to the Auditors. The object of vouching is for the Auditor to be satisfied, not only that a payment has been actually made, but to see at the same time that the amount has been posted to the proper account. It is therefore desirable for this reason that the actual invoices be affixed to the Receipts, but as in large Trading Companies, where the invoices as they come in are preserved in a different place to where the periodical Statements on which the payments are made are kept, it is very difficult, if not impossible, for the Auditor to ascertain that the expenditure has been properly classified.

Stock-in-Trade. Where stock has to be taken, the necessary arrangements should be made a few days previous to the close of the period, and most minute instructions given to those in charge of this important duty, so as to ensure correct measure or weight being taken, according to the nature of the stock ; prices should, of course, be taken from the invoices. Remarks as to depreciation, caused through either any portion of the stock being damaged, or becoming less fashionable, or for any other reason, should be noted opposite each item. In the case of a large business with heads of departments, each head should be made responsible for his stocktaking, and he should sign each sheet of

the Stock List, certifying that it has been taken under his supervision, and that, in his opinion, it is correct in every detail. He should also state what, in his opinion, should be allowed for depreciation.

It is very important for the Secretary, or other head official, to require those under him in connection with the stocktaking to give certificates of this nature, as in the event of it being subsequently discovered that there has been an error, either accidental or intentional, in the stocktaking, he can place the blame on the right shoulders. It is, of course, understood that it is his duty to check, as far as possible, the work of his subordinates.

The Auditor is, of course, not responsible for the value of the stock ; but will probably require, by testing selected items, to ascertain whether the correct value has been placed upon it, when he will, of course, consider the notes made as to depreciation. If evidence be not produced to him that proper care has been exercised in taking and valuing the stock, he will probably consider it necessary to insert a clause to that effect in his Report, and point out that the responsibility rests with the Directors and Officials, but it is not usual to insert this where the Auditor is satisfied that proper care has been taken.

Investments.

When a Company has investments, it is desirable that the Auditor be requested to examine the Securities representing the investments before they are changed, and the same remark applies more especially in the case of the Securities held against loans. It is usual in those cases where the Auditors are Chartered Accountants for them to attend immediately after the closing of the Books, count the cash, verify the Bank balance, examine the Securities, and then withdraw until they are informed that the Balance Sheet and other Statements are prepared and the Books ready for audit. It is always more troublesome for the Auditor to vouch for the correctness of the Securities after they have been changed, as he frequently has to work back through various cash transactions in order to satisfy himself.

For the purposes of the examination by the Auditor a list of Securities should be prepared, to which should be affixed the cost price, the price proposed to be taken credit for in the Balance Sheet, and the market price, so that the Secretary or Officials can first of all place the correct value upon the Securities, and can subsequently justify this valuation to the Auditors. List of Securities.

It is not customary to revalue the Securities at each period of closing the books, and the following is the usual and the safest method of arriving at the proper figures to be inserted in the Balance Sheet, viz. : If the Securities have not depreciated since they were purchased, or are of greater value, the cost price is usually taken as the value for the Balance Sheet ; but if there has been a depreciation from the cost price, taking the investments as a whole, a Reserve should be made and charged against revenue to cover such depreciation.

Provided the stock has been taken on the day up to which the books are closed, the cash in hand examined on that day or the following morning, and the Securities examined before they are changed, the rest of the audit can be done more leisurely, and for many reasons it is not advisable it should take place in any hurried way.

It is exceedingly important for the Directors and other Officials of the Company that there should be no omission from the liabilities in the Balance Sheet, and in order to avoid this many Companies now adopt the plan of sending out a printed notice to their creditors asking for a statement of their account to be sent in for the purpose of verification for the audit, or to state the amount the Company believes it is indebted to them, with a request that if incorrect a notice should be immediately sent of any difference that may exist. In those cases where debts have been collected before the Accounts are finally settled, it is easier to calculate the allowances for discounts, and perhaps also for loss on realisation of the debts. Directors should guard against omission of Liabilities.

At the same time there should be no unnecessary delay between the date of the Balance Sheet and the meeting of

the Shareholders at which the Accounts are submitted, and in many Companies the Articles of Association prescribe that not more than three months shall elapse between these two occurrences.

Apportionments.

Before finally closing the books a list should be prepared of all matters in which apportionments may have to be made, having regard to the date on which the books are closed. In the case of certain expenditure—such as rents, rates, insurance; or, on the other hand, revenue, such as interest or dividends on investments—the necessary calculations must be made of all the liabilities and income which have accrued due to the date of closing the Books. Where payments have been made in advance the Company may take credit for the proportion of the payment applicable to the period after the date on which the books are closed until its expiration. The Company may also take credit for interest accrued on investments where the rate of interest is fixed, and it is confidently expected it will be paid when due, such as that on Debentures, Mortgages, &c. Where the dividends are on shares it may in some cases be allowable to take an estimated amount, basing it on the experience of the past, but this must of course be done cautiously.

Directors' Fees.

The amount due for Directors' fees should also be agreed, and should for any reason the Directors determine to forego any part of these fees, a minute should be made to that effect. Having settled these matters, the proper Journal entries should be made, incorporating the results in the books of the Company.

When the Articles of Association provide that the Directors shall each receive a fixed sum per annum by way of remuneration for their ordinary services, it has been held that the fees are for a whole year's service, and are not apportionable.—*In re Central De Kaap Gold Mines*, VII. Manson, 82.

Trial Balance.

Before preparing the Revenue or Profit and Loss Account and Balance Sheet, the balances of the Ledger Accounts, both personal and impersonal, should be taken

out and a summary made of them, the debit and credit balances being in two separate columns.

This is called a "Trial Balance," and when the totals of the two columns coincide (including the balances of the Cash Book and Petty Cash Book) it is usually taken as correct so far as figures are concerned, and is a proof of the accuracy of the postings. From the "Trial Balance" the Revenue or Profit and Loss Account and Balance Sheet are prepared.

Difference between Trial Balance and Balance Sheet.

The Trial Balance must not be confounded with the Balance Sheet; the former contains merely the balances of the Ledger Accounts (including the Cash balance), the total of the debit balances of which must agree with that of the credit balances. The Balance Sheet consists of the debit and credit balances of the Ledger after the Revenue or Profit and Loss Account has been closed, and the profit or loss, as the case may be, has been ascertained; that is, it shows on one side the actual liabilities of the Company, including that to its own shareholders, represented by their Capital, and the Reserve or unappropriated profits as shown on paper; while, on the other, are enumerated the debit balances, frequently and erroneously referred to as Assets, as explained hereafter.

When no forms of Account are prescribed, a Profit and Loss Account, or Revenue Account, together with a Balance Sheet, are usually the only statements presented to the meetings of shareholders of a Company, but these two Statements should in any event be submitted.

Risk of relying on a Cash Account only.

It would be exceedingly unwise for the Directors and Officials of a Company to merely prepare a Cash Account and place it before its shareholders, for the purpose of a dividend being declared, based on a balance in hand at the end of the period. In a case where the Directors of a Company which had been in existence only eight months declared a bonus, James, L.J., said: "A bonus, which of course could only be lawfully made out of moneys which had been earned, or believed to have been earned, in the way of profit. . . . How was this done? Was there

any attempt to make a Balance Sheet or Profit and Loss Account in such a way as any mercantile body, and certainly any Insurance Company, ought to have done? . . . . The Directors simply had before them the cash balance of the receipts and payments, and, without making the slightest provision on that account for anything whatever, they proceed out of the balance to declare this bonus. I quite agree that it would have been different if there had been, as there ought to have been, in the ordinary course of business, a Balance Sheet *bonâ fide* made out with proper assistance, so as to ascertain the true state of the Company."—*Rance's Case, In re County Marine Insurance Co.*, 6 Ch. 104.

Directors may employ Professional Accountants.

If it be found impossible from any cause whatever for the Officials of a Company to balance the books, the Directors would be quite justified in instructing the Auditors, but in their capacity as professional Accountants, as already referred to, to balance the books; or they may, if they prefer it, employ another firm of Chartered Accountants for that purpose. The fee for this professional assistance should be included in the Revenue Account amongst the salaries or professional charges, as it must be distinctly understood that the fee voted at the meeting of Shareholders to the Auditors is for the audit alone, and does not throw upon the Auditors any duties whatever in assisting the Officials to balance the books or prepare the Accounts for audit. When the Trial Balance comes out the same amount on both sides it is usually accepted as correct, but inasmuch as it has been frequently found that a small error may, on its being looked for, result in the discovery of very many larger ones, there is the slight chance that the Trial Balance may be wrong to the extent of errors of equal amount existing on both the credit and debit sides.

Preparation of Trading Accounts, &c.

The Trial Balance having been agreed, the Profit and Loss Account and the Balance Sheet can be prepared therefrom. As regards the former Account, this can be divided into two or three sections—for example, as a

Trading Account and Profit and Loss Account—and sometimes this is prescribed by the Articles of Association. Where it is left to the discretion of the Directors, it is sometimes a question as to whether it is advisable in the interests of the Company to set out a Trading Account, having regard to the fact that the Accounts may fall into the hands of competitors in trade ; but where there is no objection it is advisable to set out fully the transactions of the Company, as the more detail that is afforded to the Shareholders in the Accounts the less responsibility is attached to the Officials. Wherever a Trading Account is not published, the Profit and Loss Account will, of course, merely commence with the balance from the Trading Account. This is the gross profit, and here again the advisability of condensing the items of expenditure into as few headings as possible, or setting them forth fully, has for the same reasons to be considered.

Depreciation.

Before finally settling the Profit and Loss Account, the question of allowances for depreciation has to be considered, and this is a most important matter, and fraught with great responsibility and liability on the part of the Directors, Secretary, and Officials. Certain assets, such as leasehold property, concessions, and patents, become of less value each year solely through effluxion of time, while plant and machinery, stock-in-trade, tools, fittings, furniture, &c., gradually lose their value, more or less, according to the manner in which they are used. For this reason no Company can be said to have made a fair profit until, in addition to the expenses of its business, there has been charged against the revenue a proper amount for depreciation in respect of this class of assets.

Method of arriving at amount of depreciation.

The usual method adopted for arriving at this amount is to take a percentage on the original cost price, and it is evident that this can only be properly done by dividing these assets into various groups, the items in each approximating as near as possible to the number of years they will respectively last. In the case of long leaseholds and heavy plant and machinery, the depreciation will of course be

very small, as compared with that of tools, driving bands, and other small articles in every-day use.

A frequent method of arriving at the total amount to be written off for depreciation is the one which is, perhaps, the most thoroughly unsound which could be devised, viz., first ascertaining the profit without depreciation, then considering the amount of dividend which the Directors desire to pay, and leaving any balance available as the proper amount for depreciation. A more mischievous and unsound system could not be acted upon, or, from the Directors' and Officials' selfish point of view, a more foolish one. The object of Directors and Secretaries ought not to be to pay as high a dividend as possible, but to do exactly the reverse. A percentage on the capital paid away in dividend can never be recalled, while one retained in hand is always available. A Director who consents to agree to recommend a quarter per cent. more dividend than he is absolutely compelled is exceedingly foolish, while a Secretary who assists him is more foolish still. There is no doubt that thousands of Companies registered since the Act of 1862 came into existence have been wound up through this insane craze for paying high dividends.

False argument of some Directors.

It may be argued that the Directors have no right, by writing off too much for depreciation in any one year, to minimise the profit of that year, and thus deprive shareholders, who may happen to be shareholders when the dividend is prepared, and who may sell their shares afterwards, of that which they are legitimately entitled to. This theory is, surely, an entirely false one ; it is not incumbent upon the Directors to consider individual shareholders or a special group of shareholders in any way, and certainly not those who keep buying and selling shares and holding them for short periods. It is their duty to keep the capital of their Company intact, and do their best to make it a permanent institution. With this view Directors and Secretaries should endeavour to eliminate the fictitious Assets from their Balance Sheets as soon as possible, and to replace them by investments which in bad times will

enable them to pay, say, a five per cent. dividend for several years. In frequent instances Companies, after paying dividends of fifteen and twenty per cent. for years, have gone into liquidation within twelve months of their last high dividend through their having nothing in hand to meet a temporary depression in their particular line of business.

Directors and Officials, therefore, in simply looking at the matter from their own point of view, and doing their best to preserve their fees and their situations for years to come, are acting in the true interests of the shareholders as well as themselves. In further support of this, it is undoubtedly a fact that the shares of a Company that has paid fair dividends, and has a large Reserve, are more saleable and command higher prices than those of one that has paid large dividends but cannot in its Accounts show that there is anything to fall back upon in case of emergency.

In settling, therefore, the amount of depreciation, the Directors should not take into consideration how the result of their decision will affect the dividend, or how the dividend will affect the market price of the Company's shares. Directors have nothing to do with the market price of the shares, and from the moment they commence to regard any question respecting the internal managements of their Company from that point of view, it becomes almost impossible for them to do their duty honestly. They should ascertain the very fullest amount that ought to be chargeable for depreciation, even if the result shows a loss, while a little difference would make a profit, and place the Accounts before the Shareholders without any attempt to make them look better.

Bad Debts.

The same remarks apply as to the amount to be charged against the Profit and Loss Account for losses likely to arise on the realisation of the book debts; the question should be carefully considered without any reference whatever to what will be the effect on the profit or loss. The amount of the debts which, in the opinion of the Secretary are not likely to be collected should be entirely charged

against the Account, and then a careful estimate should be prepared of the loss likely to arise on what is known as "doubtful debts." There is, of course, no fixed rule for adoption, every class of business has its own experience; but a very common method is to charge a percentage on the total amount of the debts. There can be no objection whatever to this plan if adopted, provided the percentage be sufficiently high; it is far better to create too large a Reserve than too small a one.

Spreading Expenditure over a Term of Years.

The Articles of Association of some Companies contain a clause allowing the Directors to spread any special expenditure over several years, leaving the balance of the amount not charged against Revenue on the credit side of the Balance Sheet. The greatest care must be exercised in taking advantage of this clause, as there can be no doubt the only justifiable way of treating expenditure in this manner is when it is fully expected that the outlay will benefit the Revenue of future years, against the Accounts of which the balance will be charged. It is extraordinary how fond many Boards of Directors and Secretaries are of treating any special expenditure in this manner; one would think their great anxiety would be not to have items of this nature in the Balance Sheet.

The Invoices connected with expenditure of this nature should, of course, be carefully preserved, as the Auditor may refuse to allow any expenditure to remain on the credit side of the Balance Sheet without comment, unless it is proved clearly to his satisfaction that the expenditure should be properly so treated.

How to treat Mortgaged Property.

The question as to how to deal in the Accounts with items representing property encumbered by mortgages, and the personal accounts of the mortgagees, is frequently a subject of argument. There can be no doubt that the strictly proper way in stating these items in a Balance Sheet is to place the amount standing at the credit of the mortgagees in short on the debtor side of the Balance Sheet, stating there, also in short, the value of the property, and including in the credit side the estimated surplus value

of the properties after paying off the debts upon them. It is wrong to place the values of any encumbered property among the free assets without a distinct reference, either immediately after them or in a footnote, that they are hypothecated. This practice is not, however, so objectionable when there is a reserve exceeding in amount the secured loans.

Board Meeting to pass the Accounts.

The Revenue or Profit and Loss Account and Balance Sheet, having been finally settled, should be placed by the Secretary before a Board meeting of the Directors, reference being made thereto in the Agenda Book, and the notice convening the meeting should also inform the Directors that part of the business is to consider these Statements. Should any of the Directors, either on their own initiation or prompted by any other Official of the Company, object to these Statements as being, perhaps, too severely drawn, the others should use all their influence to prevent any alterations, and if finally the majority of the Board alter the Accounts to an extent with which some may not be satisfied, the latter should require their objections to be entered in the minutes, so as to relieve themselves of any responsibility in the future.

Accounts when passed to be submitted to the Auditor.

The Accounts, having been approved by the Board, should then be signed by the Chairman, countersigned by the Secretary, and then handed formally to the Auditors. There is, of course, no objection, and indeed it is preferable, for the Secretary to see the Auditors on the proposed Accounts, and take their advice on any points before finally settling them for the Directors. This will save, perhaps, considerable trouble afterwards.

Duty of Officials to attend upon the Auditors.

It is the duty of the Secretary and the other Officials of a Company to assist the Auditors in every way during the conduct of their audit; they should also, unless absolutely impossible, arrange for the Auditors to have a room to themselves, as it is exceedingly inconvenient to Auditors to have to work where other Clerks are engaged. It is also troublesome for Auditors to be interfered with in the course of the audit. Many Secretaries, in their desire to be attentive, are frequently very troublesome in continually

pressing their explanations and offers of assistance on the Auditors, who do their work best when left alone, and when they only come in contact with the Officials in reply to a special request for information or assistance.

Issue of Accounts and Auditors' Certificate to Shareholders.

On receiving the Accounts back from the Auditors with their Certificate, the same should be immediately printed and dealt with according to the Articles of Association. The Certificate must, of course, be printed at the foot of the Balance Sheet, but the Report of the Auditors of Companies registered under the Companies Acts, 1862 to 1900, need not be printed, as it is only required to be read to the Shareholders at the Annual General Meeting.

CHAPTER VI.

ON THE BOOKS TO BE EXAMINED BY THE AUDITOR.

Auditors should be provided with a list of Books—Auditors should understand Book-keeping—Books submitted to Auditors of Public Companies—Of Trustee Savings Banks—Of Executors and Trustees.

Auditors should be provided with list of Books.

It is prescribed by Section 93 of the First Schedule to the Companies Act, 1862, and consequently by most Articles of Association of Limited Companies, that every Auditor shall have a list delivered to him of all books kept by the Company, and it is most desirable this practice be conformed to in all cases. With a list of the books in front of him, an Auditor is far less likely to omit performing some essential part of his audit than when he relies solely on his memory, however that may be fortified by experience.

Auditors should understand Book-keeping.

One of the absolutely essential qualifications of an Auditor is a thorough knowledge of the theory and practice of book-keeping, and in many cases an Auditor is at a great disadvantage if he does not possess some special experience in the book-keeping of other concerns carrying on transactions of a nature similar to the one whose Accounts, as Auditor, he is about to examine. It does not come within the province of this work to give any instruction in the method of keeping ordinary books of account, and the remarks will be confined to those points which require attention from the point of view of the Auditor.

Certain Books need not be referred to by the Auditor at every Audit.

Some of the books contained in the list handed to the Auditor need not be referred to by him at every audit, but should he at any time not be satisfied with the Accounts and documents placed before him in support thereof, he may deem it necessary to examine some, or even all of them, for the purpose of his investigation.

Books of Public Companies.

The books used by public Companies are as numerous as the ingenuity of Managers, Accountants, and Secretaries have been able to devise, and, as very frequently the official to whom is entrusted the important duty of modelling and opening them has been previously engaged in a different class of business, it often happens that unnecessary columns, accompanied by equally unnecessary detail, are introduced into the books.

An efficient Auditor would, if necessary, be able to remedy this, and to suggest more suitable forms for adoption, but it would be impossible in this work to prescribe the forms of books for recording the transactions in detail of every class of Company.

Books in use by Public Companies.

The books in use by public Companies may be divided into two classes :

1. Registry or Statistical.
2. Financial or Account.

Registry or Statistical Books.

The attention of the Auditor is principally confined to the financial books, and it does not ordinarily come within his province to investigate the statistical ones or books of record, every Company having few or many according to the nature of its business. The following, however, may occasionally require to be inspected or referred to by him, some of which are prescribed by Acts of Parliament, the others by general practice and custom.

Application for and Allotment of Shares Book.

The Application for and Allotment of Shares Book should contain the names, addresses, and occupations of all applicants for shares, entered in the order in which their applications are received at the office of the Company, together with the number of shares they each apply for, the number of shares allotted to them in respect of such application, the dates of application, of receipt of application, and of allotment, the numerical number of the shares allotted, the date of the issue of the Certificates, and any other particulars the Directors or Manager may consider it desirable to have recorded.

Register of Members.

A Register of Members is required to be kept by

every Company registered under the Companies Act, 1862. This must contain the names, addresses, and occupations of the members, a statement of the shares held by each member, distinguishing each share by its number, the amount paid, or agreed to be considered as paid, on the shares of each member, also the dates on which their names are entered on the Register, and the dates on which they cease to be members of the Company.

The Register may be kept in more than one book, which by reference from one to the other supply all the information required by the Act (*Wickersheim's Case*, 8 Ch. 831, 836). If shares be paid in whole or in part, not in money, but in money's worth, the extent of such money's worth is to be entered on the Register (*Anglesea Colliery Company*, 2 Eq. 379, 1 Ch. 555). The Companies (Colonial Register) Act, 1883, allows certain Companies to keep branch Registers of Members resident in Colonies.

Frequently amalgamated with Shareholders' Ledger.

Frequently the Shareholders' Ledger is so designed as to contain all these particulars, and thus two books are amalgamated in one. This plan has, however, one great disadvantage. Section 32 of the Companies Act, 1862, prescribes that the Register of Members shall be open to the inspection of any Member gratis, and to that of any other person on the payment of one shilling, or any less sum the Company may prescribe for each inspection. It might be very undesirable for the Company to throw open its Share Ledger to the inspection of everyone making a demand under this section, and for this reason the Shareholders' Ledger is usually kept as a separate book. The book which gives all the particulars required by the Act, without affording any information to an inspector except by considerable research, is one which contains the shares in numerical order, with the names of their respective holders, and other particulars, in the same line with the number.

By Section 30 of the Act just referred to, no notice

of any trust, expressed, implied, or constructive, may be entered in the Register of Members.

Register of Shareholders.

Companies incorporated by special Act of Parliament are required by the Companies Clauses Consolidation Act, 1845, to keep a book, called a "Register of Shareholders," in which the names, arranged in alphabetical order, of the individuals and corporations holding shares in the Company are entered, together with the number of shares they hold, each share being distinguished by its number and the amount paid on such shares. At each Ordinary Meeting of the Shareholders the common seal of the Company is affixed to this Register for the purpose of authentication.

Shareholders' Address Book.

These Companies, and also all Life Assurance Companies not registered under the Companies Act, 1862, and which have not incorporated in their Deeds of Settlement Section 10 of the Companies Clauses Consolidation Act, 1845, are obliged to keep a Shareholders' Address Book, in which are entered in alphabetical order the names and addresses of the shareholders.

Register of Holders of Consolidated Stock.

A Register of Holders of Consolidated Stock has also to be kept by Companies incorporated by special Acts of Parliament, which should contain the names of the proprietors of the stock and the amounts they hold respectively.

Register of Mortgages.

Limited Companies registered under the Companies Act, 1862, and also Companies incorporated by special Act of Parliament, are obliged to keep a Register of Mortgages and charges given by them which specially affect the property of the Company.

This Register should contain a short description of the property mortgaged or charged, each mortgage or charge being separately entered, also the names of the Mortgagees or persons entitled to such charges, with the amounts of charge created.

In the case of mortgages or charges created after the 1st January, 1901, a copy of every instrument creating such mortgage or charge has to be entered in the Register

of Mortgages, or some other book specially kept for this purpose, provided that in the case of a series of uniform debentures a copy of one of these debentures is sufficient.

Register of Securities.

Companies registered under the Mortgage Debenture Acts have to keep a Register of Securities, in which has to be entered the date of every Deed or other Instrument registered at the Land Registry Office, its nature, whether Mortgage, Grant of Annuity, Rentcharge, or other Security, the amount of the Principal money, or the amount and duration of the Annuity thereby secured, the tenure, extent, and situation of the property upon which the Security is taken, and, if there are any Charges which take priority of the Company's Security, then the amount of such prior Charges.

Register of Transfers.

Nearly all Companies keep a Register of Transfers (and Companies incorporated by special Act of Parliament are obliged to do so), in which is entered the names and addresses of the transferors and transferees of any shares or stock, also the particulars and amount of the shares, or the amount of the stock transferred.

Register of Debenture Stock.

Companies incorporated by special Act have also to keep a Register of Debenture Stock, in which is entered the names and addresses of the several persons and corporations holding the Debenture Stock, with the amounts of the stock to which they are respectively entitled.

Register of Directors and Managers.

Companies, registered under the Companies Act, 1862, have to keep at their registered office a Register containing the names, addresses, and the occupations of its Directors and Managers.

A copy of this Register has to be sent to the Registrar of Joint Stock Companies, and any change that takes place therein has to be at once notified to him.

Cost Book.

The Pursers of Companies working under the Stannaries Acts have to keep a Cost Book, which term includes all books and papers relating to the business of the mine, which, according to law, or the custom of the Stannaries, ought to be kept by him.

Depositors' Balance Book.

Under the Trustee Savings Banks Act, 1893, a Book has to be kept containing an extracted list of the Depositors' balances, made up every year to the 20th November, omitting the name, but giving the distinctive number and separate amount of each, and showing the aggregate number and amount of the whole; this book has to be checked and certified by a professional Accountant or by the Auditors.

Annual List of Members.

Section 26 of the Companies Act, 1862, prescribes that every Company registered under that Act, having a capital divided into shares, shall keep an Annual List of Members, together with a summary. The particulars which have to be entered in this book will be found in Chapter III.

Minute Book.

The Minute Book, which every Company is obliged to keep, should contain a record of the Directors present at each Board meeting, and of all their transactions thereat.

As the Auditor may frequently have to refer to this book, he should, if it be not properly kept, call the attention of the Directors to the fact, and request them to exercise greater supervision over the entries. All agreements entered into by the Directors should be placed on record in this book, also the cheques drawn, discussions of importance and their result, and, in fact, all that transpires at meetings of the Board, with the exception of mere conversation.

Committee Minute Books.

In large Companies the Directors divide their routine business among Committees of their body, each of which has its own Minute Book. The above remarks, however, apply, whether the minutes are recorded in one or more books.

Shareholders' Minute Book.

A Minute Book should also be kept of the transactions of the meetings of the shareholders. The Auditor is of course entitled to refer to this book for the purpose of ascertaining if any resolutions have been passed affecting the Accounts.

Financial or Account Books.

The following Financial or Account Books are generally used by public Companies; in non-trading Companies

the Day Book and Invoice Book are known by other names.

Cash Book.

The Cash Book, as its name implies, contains a record of the receipts and expenditure of the Company. It should, however, except in the case of very small Companies, only contain those payments which are either made by cheques, or bills payable, and bank charges. All payments for which cheques are not drawn should be entered in a subsidiary book, called the "Petty Cash Book," to provide for which payments cheques for round sums should be drawn, and entered in the Cash Book to the debit of petty cash, to be accounted for in the subsidiary book.

The Cash Book is, therefore, practically a counterpart of the Bankers' Pass Book, and they can be easily checked against each other.

Particulars of Cash Receipts and Payments.

All monetary receipts, coin, bank notes, cheques, bankers' drafts and orders are, of course, entered in the Cash Book, including the capital as received, premiums on shares, also the cheques drawn by the Company on its bankers, bank charges, and bank interest. When Bills of Exchange Receivable are discounted the proceeds are, of course, brought into the receipt side of the Cash Book, while on the other side should be entered the amount charged by the bankers for the accommodation.

Petty Cash Book.

The Petty Cash Book contains, as already mentioned, a record of those payments for which it would be inconvenient, or the amounts of which would be considered too small, to draw for each a separate cheque.

Instead of posting each of the items in the Petty Cash Book to the debit of their Ledger Accounts, an abstract may be made monthly, journalised, and then posted into the Ledger.

Day Book.

The Day Book contains the records of all goods sold and delivered by a trading Company; these need not be entered in detail, but the amount charged should be placed in a cash column.

The totals of the cash columns are carried in the usual

way through the Journal to the credit of a general sales or a departmental account, while each sale is usually posted direct into the Ledger to the debit of the purchaser of the goods.

When a business is divided into several departments, each department has usually its own Day Book.

Equivalent for Day Book in non-trading Companies.

In non-trading Companies books of record of the business transacted are kept on very much the same principle as the Day Book of a trading Company, their object being to ensure that the Accounts of the customers in the Ledger are debited with the proper amounts, also that these amounts are carried, either in detail or in total, periodically to the credit of an impersonal Account in the Ledger, from which they will be ultimately transferred to the credit of the Revenue or Profit and Loss Account.

Invoice Book.

In the Invoice or Bought Book are entered, with full particulars, the purchases by a trading Company of all goods intended to be sold again.

The invoices themselves should be numbered and filed in numerical order in Guard Books. For the purpose of facilitating reference, the numbers should coincide with those in the Invoice Book.

Minor Books.

There are many minor books kept by Companies, according to the class of business carried on, which may require examination by the Auditor, such as :

Order Books.

Order Books, which contain copies of the orders as received, and should be produced to the Auditor should he not feel satisfied that sales taken credit for are genuine, or have been brought into the Accounts when they belong to those which will be presented to the Shareholders on a future occasion. If after inspection the Auditor is still in doubt he should require production of the original orders.

Contract and Estimate Books.

Delivery Books.

Press Copy Books, containing copies of the original Invoices of Goods sent out, copies of Statements, &c.

Stock Books.

Stores Books.

Returns Outwards. This book contains Purchases which have subsequently been returned.

Returns Inwards. This book contains goods returned by customers of the house.

Wages Books.

Bills of Exchange.

Bills are written undertakings to pay certain sums on certain dates, and can be drawn in two forms, as Acceptances or as Promissory Notes, the former being more generally used in commercial transactions.

Bills Receivable and Bills Payable Books.

The Bills Receivable Book contains the particulars of those Bills the proceeds of which, on maturity, are paid to the Company, while the particulars of those Bills which have to be paid by the Company on their due date are entered in the Bills Payable Book.

When a customer gives a Bill Receivable to the Company in lieu of cash, his Ledger Account is at once credited with the amount of the bill, while the Bills Receivable Account in the Ledger is debited with a like amount. In the same way, when the Company discharges one of its obligations by giving a bill payable, the firm receiving the bill is debited with the amount, and the Bills Payable Account in the Ledger is at the same time credited.

Journal.

The Journal is the book which constitutes the system of book-keeping by double entry. Into it are collected, either in detail or in abstract form, the transactions of the Company previously entered in the books already described, or in those corresponding to them.

Particulars to be entered therein.

The Journal has two cash columns, usually on the same page, with an additional column for the Ledger folios. In the left, or debit cash column, are entered the amounts which have to be posted to the debit of Accounts in the Ledger, while in the right-hand cash column are entered those amounts which have to be posted to the credit of Ledger Accounts.

As a check on the correctness of the figures, the columns should be added up on the completion of the

entries for the time being, and if the totals of the two columns agree the items can be posted into the Ledger.

Opening entries in Journal of a New Company.

The first entries in the Journal of a Company formed for acquiring a property, or taking over a business, would be those referring to the purchase, such entries being made for the purpose of bringing into the Accounts any property or other asset, the particulars of which would be contained in the deed or other document by which such property was acquired, also any mortgages or charges, if any, with which the property is encumbered.

All sales, purchases, interest, discount, commission, expenses, &c., should be journalised, also the bills payable and receivable. In fact, to fully carry out the system of book-keeping by double entry, every item in the subsidiary books should be journalised, and posted from the Journal into the Ledger. It is, however, usual to post the Day Book and Invoice Book entries direct to the debit or credit of the personal Accounts in the Ledger, also the cash receipts and payments. In some Companies the cash is partly journalised as regards certain entries, the remainder being posted direct.

Ledger

The Ledger contains the classification of all the entries in the other financial books, and no other entries, with the exception of transfers from one Ledger Account to another, should be made in it, as, in strict accordance with the theory of double entry as practised in this country, all items found in the Ledger should have passed through the Journal, and been posted into the Ledger therefrom.

It should, however, be stated here that the above remarks apply to those books which are kept upon the strict principles of double entry book-keeping, but the pressure of business and the desire of reducing labour has in many large establishments caused the entries in the Journal to be as few in number as possible.

Still, the principle remains, and to an Auditor it is a matter of but little importance whether the amounts are

posted direct to the debit or credit of the Ledger Accounts from the subsidiary books direct, or through the instrumentality of the Journal. As long, however, as this book is the accepted medium of posting, the foregoing remarks will apply.

The preceding remarks explain the system of book-keeping in general use by public Companies. With reference to the subsidiary books, it would, as stated at the commencement of the chapter, be impossible to prescribe the forms for every class of Company.

The books necessarily vary according to the nature of the business, but the object for which they are employed is always the same, namely, to record the transactions in as simple a manner as is consistent with ensuring perfect accuracy, combined with rapidity in the transfer.

Books of Trustee Savings Banks.

The Inspection Committee of Trustee Savings Banks recommend that Duplicate Cash Counter books or Tellers' books be kept, also General Cash books, a General Ledger and Journal and Depositors' Ledgers, and that the General Ledger should contain the following accounts :—

1. Commissioners for the Reduction of the National Debt.—General account.
2. Commissioners for the Reduction of the National Debt.—Separate surplus fund not bearing interest.
3. Commissioners for the Reduction of the National Debt.—Separate surplus fund bearing interest.
4. Depositors.
5. Treasurer.
6. Cash.
7. Petty cash.
8. Interest.
9. Expenses of management.
10. Profit and loss.
11. Premises,
    and
12. Such other accounts as the circumstances of each Bank may require.

The Duplicate Cash Counter books previously referred to might be used as follows :—

Cash Counter book A, kept by the Trustee or Manager in attendance (if his attendance is required by Subsection 2 of Section 6 of the Act of 1863), to be used for posting items of receipts and payments to the Deposit Ledgers. It should show a constant weekly summation, and the weekly totals should be certified by the signature of the Trustee or Manager.

The Cash Counter book B might be made in similar form, and would give the figures for the weekly returns of cash transactions sent to the National Debt Office. The Cash book and General Ledger should also be posted from this source.

Books of Executors and Trustees.

The Books of Account of Executors or Trustees under a will usually submitted to an Auditor are the following :—

Cash Book.

Cash Book, which would commence with the balances at the Bank or Banks with which the Testator banked at the date of his death. The cash found in the house, and all other receipts by the Executors or Trustees, including the debts due to the Testator at the date of his death, and collected by the Executors or Trustees, dividends on investments, proceeds of investments sold, and any other receipts would be entered, while the payments would include the funeral expenses, death duties, probate and other law expenses, legacies, debts due by the Testator at the date of his death and discharged by his Executors or Trustees, purchase of investments, and all other payments.

Ledger.

The General Ledger would contain the amounts posted from the Cash Book, with headings similar to those indicated in the Cash Book.

The Investment Ledger would contain the Accounts of the various Investments belonging to the Testator at the date of his death, and of those purchased since by the Executors or Trustees, also an Account of all dividends received thereon.

Should the Testator have left property in land or

houses, the books usually kept for this class of property should also be kept by the Trustees. The same remark applies should the Testator have left an interest in any businesses or ventures, and these books should of course be placed before the Auditor, who would examine them in the ordinary way, as though the property or businesses belonged to a living person.

Executors and Trustees are bound to keep Accounts, and to give a satisfactory statement of the state of a Testator's Assets.—*Ottley v. Gilby*, 8 Beav. 692.

CHAPTER VII.

FORMS OF ACCOUNTS SUBMITTED TO AUDITORS.

Variety in Forms of Accounts published by Public Companies — Forms of Accounts published by Limited Liability Companies—By Life Assurance Companies — By Railway Companies—By Gas and Water Companies—Profit and Loss (or Revenue) Account and Balance Sheet usually issued alone when Forms of Account not prescribed—Difference between Revenue Account and Cash Account—Balance Sheet—Forms of Accounts of Building Societies—Of Friendly Societies—Of Industrial and Provident Societies—Forms required by the Hospital Sunday and Hospital Saturday Funds—Accounts of Executors and Trustees under a Will.

Variety in Forms of Accounts published by Companies, &c.

The Accounts of Public Companies and Societies, as placed before their Auditors for confirmation, vary very considerably. In some Companies and Societies the forms are specially prescribed, and are set forth in Schedules to the Acts of Parliament under which they work, while other Companies are unfettered in this respect, and it is left entirely to the Directors and officers as to how the results of their management are laid before the shareholders.

Life Assurance, Railway (including Tramway), Gas Companies, and Building Societies are examples of the first class, while nearly all Companies registered under the Companies Act, 1862, are at liberty to use their own forms of Accounts, with the exception of those registered without Articles of Association. The Companies Act, 1900, prescribes that the Auditors shall sign a Certificate at the foot of the Balance Sheet, but does not compel the Directors of all Companies to present even a Balance Sheet to their shareholders.

This Act also prescribes that, at least seven days before the Statutory Meeting of a newly registered Company, the

Directors shall forward to every member a Report containing the number of shares allotted, with certain particulars relating thereto, and an Abstract of the Receipts and Payments of the Company on Capital Account to the date of the Report, and an account or estimate of the preliminary expenses, duly certified by the Auditors, if any.

Forms of Accounts of Limited Companies.

Companies registered under the Act of 1862, with Articles of Association, are required to present to their Auditors the forms of Account specially prescribed in those Articles. If registered without Articles of Association they are required by Section 79 of Table A to lay before their shareholders a Statement of the income and expenditure for the past year, made up to a date not more than three months before the meeting, and arranged according to the particulars contained in Section 80. They are also required by Section 81 to lay before the meeting a Balance Sheet in the form annexed to Table A, and which will be found in the Appendix.

Forms prescribed by Life Assurance Companies Act, 1870.

The Accounts of Life Assurance Companies, registered under the Act of 1862, as many are, are, like all other Life Assurance Companies, subject to the forms prescribed by the Life Assurance Companies Act, 1870, which have to be filed annually with the Board of Trade.

By Companies Clauses Consolidation Acts.

The Companies Clauses Consolidation Act, 1845, requires by Section 106 that the Directors of every Joint Stock Company incorporated after the 8th of May, 1845, by Special Act of Parliament, shall deliver to the Auditors half-yearly or other periodical Accounts and Balance Sheet, and Section 116 prescribes certain details which have to be entered in the Balance Sheet.

By Regulation of Railways Act, 1868.

Railway Companies are compelled, by the Regulation of Railways Act, 1868, to publish, in addition to the Revenue Account and Balance Sheet prescribed by that Act, five Statements relating to their capital, showing with details the capital authorised and created by the Company, the proportion received, the capital raised by loans and debenture stock, and the receipts and expenditure on Capital Account; they are also compelled by the same

Act to publish two Statements relating to the estimated further expenditure on Capital Account, a return of working stock, and two mileage statements.

By Gas Works Clauses Act, 1847.

Gas Companies are required by the Gas Works Clauses Act, 1847, to publish detailed Statements of their share and loan capital.

By Electric Lighting Undertakings

Electric Lighting undertakings are required by the Electric Lighting Act, 1882, to publish Accounts in the form prescribed from time to time by the Board of Trade. At the present time the form includes Statements of Share and Loan Capital, a Capital Account, a Revenue Account, a Net Revenue Account, a Reserve Fund Account, a Depreciation Fund Account, and a General Balance Sheet.

By Metropolis Water Act.

The Metropolis Water Act, 1852, enacts that the Metropolitan Water Works Companies shall prepare an Account of the total receipts and expenditure of all rates or other moneys levied under the powers of their Act, under the several distinct heads of Receipts and Expenditure.

The Accounts just referred to and all other similar statements are statistical, and do not form part of the book-keeping proper.

Revenue Account and Balance Sheet usually issued alone when Form not prescribed.

The Accounts of those Companies which are at liberty to present them in their own forms are usually set forth in two statements, a Revenue or Profit and Loss Account, and a Statement of the debtor and creditor balances of the Ledgers in an abstract form, generally known as a Balance Sheet.

The entries in the financial books culminate in these two statements, and it is to their investigation the attention of the Auditor is principally confined. All other statements which may be brought under his notice are, with the exception of estimates, abstracts from the Cash Book, compiled for the purpose of showing how a particular class of receipt has been expended.

With one exception they require no comment, both

the preparation of these statements and the checking their correctness being a mere mechanical process.

Statement of Receipts and Payments, or Cash Account.

The exception just referred to is a general statement of Receipts and Payments, which is frequently published by Companies in addition to a Revenue Account and Balance Sheet, and in some instances it is substituted for a Revenue Account and issued to the Shareholders, in conjunction with a Balance Sheet, alone.

This Cash Account shows the shareholders how their capital and the other receipts of the Company have been expended or invested, and if the debtors of the Company discharged their obligations by prompt payment, on the completion of each transaction, and if the Company, on the other hand, settled with their creditors in the same manner, this Account, together with a Balance Sheet, would be the only statement required for laying before the shareholders the result of the business of the period.

Public Companies, however, almost without exception, take advantage of credit, and on the other hand are obliged, in transacting business with their customers, to afford them the same facilities, consequently a Cash Account does not convey to the shareholders all the information requisite to show the result of the transactions of the Company.

Difference between Revenue Account and Cash Account.

The difference, therefore, between a Cash Account and Revenue Account is that the former is merely a summary of the cash received and expended, as stated in detail in the Cash Book, while the latter shows on the one side the total income of the period, irrespective of whether the same has been actually received or is due to the Company, and on the other side the total outgoings or charge, whether the same has been paid or is owing by the Company.

All receipts and payments relating to capital, and not to income, would be omitted in the Revenue Account, but would of course have to be included in the Cash Account ; for example : The following items

appearing in the Cash Account would be omitted in the Revenue Account for the same period. On the income side, shareholders' capital, premiums on shares issued, amounts received on mortgage and on loan, or on the sale of securities; and on the expenditure side, sums paid for the purchase of securities, sums advanced on mortgage, the amount of mortgages repaid, and sums advanced on loans, and the amount of loans repaid.

On the other hand, the following items would appear in a Revenue or Profit and Loss Account which would be absent in a Cash Account. On the income side the amounts due from debtors for sales not paid for at the date of closing the books, interest on investments accrued, but not received; while on the expenditure side would be found purchases by the Company not paid for, and other similar entries.

Receipts and Payments Account should show total Receipts and Payments to date.

The Receipts and Payments Account should show not only the receipts and payments of the period under audit, but also the total amount of cash received, and the total amount expended from the commencement of the Company's existence.

If only the receipts and payments of the period under audit are given, the manner in which the shareholders' capital has been expended will only be shown in the first statement prepared after the incorporation of the Company, unless there have been subsequent issues of capital, when the manner in which it has been expended will be shown in the statement embracing the period during which the respective issues have been made.

The danger of relying on a Cash Account only, for the purpose of ascertaining the amount of profit available for dividend, has been pointed out in Chapter V., and the Statements of Account issued to Shareholders of Companies registered under the Act of 1862 very seldom include a Cash Account.

Balance Sheet.

The other statement, issued to the shareholders in conjunction with the Revenue or Profit and Loss Account, is the one usually known as a Balance Sheet. This

document shows on the one side the capital of the Company, both share and loan, the amount due to creditors, and any other liabilities of the Company, arranged under the proper headings, while on the other side are enumerated the assets and property and other debit balances of the Ledger.

The three Statements which afford full Information to the Shareholders.

The "Receipts and Payments Account," or "Cash Account," the "Revenue Account," or "Profit and Loss Account," and the "Balance Sheet" can therefore afford the shareholders full information respecting the affairs of their Undertaking. From the first statement they can ascertain how their capital and cash receipts from all sources have been expended. The second gives the result of the operations for the period over which it extends, while the third shows the position the transactions have resulted in as contained in the financial books.

The first of these statements has been already explained as being an abstract of the Cash Book, and requires no further comment. The Revenue or Profit and Loss Account and the Balance Sheet will be treated more fully in the following chapters.

Forms of Accounts of Building Societies.

The Building Societies Act, 1874, requires by Section 40 that an Annual Account of Receipts and Expenditure and a General Statement is to be annually attested by the Auditors of each Society, and Section 2 of the Building Societies Act, 1894, prescribes that these Accounts shall be in such form and shall contain such particulars as the Chief Registrar of Friendly Societies may prescribe. This form has since been prepared and will be found in the Appendix.

Of Friendly Societies.

Under the Friendly Societies Act, 1896, a Return of the receipts and expenditure, funds and effects of each Society or Branch has by Sections 26 and 27 to be submitted to the Auditors once at least in every year, and the form which is prescribed by the Chief Registrar of Friendly Societies is given in the Appendix.

Of Industrial and Provident Societies.

The Industrial and Provident Societies Act, 1893, contains in Sections 13 and 14 provisions for an Annual

Return of the receipts and expenditure, funds and effects of each Society, to be submitted to its Auditors, but no form is prescribed, and the only details specially required by the Act are that the expenditure in respect of the several objects of the Society shall be shown separately.

Forms of Accounts of Hospitals

The Committees of the Hospital Sunday Fund and the Hospital Saturday Fund require all Institutions who desire to participate in the Collections to submit a Statement of Income and Expenditure, signed by a professional Auditor.

Income.

The Income is to be divided under the following heads :—

A. Ordinary (showing separate total at end)—

I. Annual Subscriptions (to be accompanied with list).

II. Donations (list).
Boxes (list).

III. Hospital Sunday Fund.

IV. Hospital Saturday Fund.

IV.a Prince of Wales's Hospital Fund.

V. Congregational Collections (apart from Hospital Sunday Fund).

V.a (Required by Saturday Fund only) Contributions from Working Classes.

(1.) Church and Friendly Societies' Parades.

(2.) Workshop Collections and all other similar sources.

VI. Entertainments.

VII. Invested Property.
Dividends (as per list).
Income Tax returned.
Interest on Deposit Account.
Rents.

VIII. Nursing Institutions.
Private Nurses.
Nurses' and Probationers' Fees.

IX. Patients' Payments.

In-Patients / Out-Patients } Required to be divided for the Saturday Fund into Optional and Obligatory.

X. Other Receipts (with details).

B. Extraordinary—

Legacies (with details).

The Expenditure is to be divided under the following heads, the Sunday Fund requiring the items in brackets in A to be separately stated. Expenditure.

A. Maintenance (showing separate total at end)—

I. Provisions (Meat, Fish, Poultry, &c.—Butter, Cheese, &c.—Eggs—Milk—Bread, Flour, &c. —Grocery—Vegetables—Malt Liquors).

II. Surgery and Dispensary (Drugs, Chemicals, Disinfectants, &c.—Dressings, Bandages, &c.— Instruments and Appliances—Ice and Mineral Waters—Wine and Spirits—Sundries).

III. Domestic (Renewal of Furniture—Bedding and Linen—Hardware, Crockery, Brushes, &c. — Washing — Cleaning and Chandlery — Water — Fuel and Lighting — Uniforms — Sundries).

IV. Establishment Charges (Rates and Taxes— Insurance—Garden—Annual Cleaning—Repairs, ordinary).

V. Rent.

VI. Salaries, Wages, &c. (Medical—Dispensing— Nursing—Other Salaries and Wages, except those included under Administration—Pensions).

VII. Miscellaneous Expenses (Printing, Stationery, Postage and Advertisements—Sundries).

B. Administration (showing separate total at end)—

I. Management (Under following heads for both Funds: Official Salaries—Commission—Pensions—Official Printing and Stationery— Official Postage and Telegrams — Official

Advertisements—Law Charges—Interest on Loans—Auditor's Fee—Sundries).

II. Finance (Appeals—Festival).

C. Extraordinary Expenditure (showing separate total at end)—

I. Repairs.

II. Building Improvements.

Accounts of Executors.

The Accounts of Executors or Trustees under a Will usually submitted to Auditors are the following :—

(1.) Statement showing the financial position of the Testator at the day of his death, from which will be ascertained the amount of the Estate or Corpus to be administered by the Executors or Trustees. In preparing this Statement regard must be had to the provisions of the Apportionment Act, 1870 (*see* Chap. IV.).

(2.) Statement showing the receipts and expenditure of the Executors or Trustees from the date of the death until the date of this Statement.

(3.) Statement showing the financial position of the Trustees at the date up to which the Accounts have to be audited.

In those cases where there are separate Trusts, separate Income and Expenditure Accounts, and a Statement showing the financial position of each Trust, is usually laid before the Auditors.

CHAPTER VIII.

NATURE AND PRINCIPLES OF AN AUDIT.

Nature of an effective Audit—Errors of Omission—Errors of Commission—Errors of Principle—A List of the Books of Assistance to the Auditor—Auditor should be provided with the Regulations—No part of an Auditor's duty to give advice—Investigation of the Capital Account of a Company — Prospectus — Application for Shares—Letters of Allotment — Share Certificates—Entries in the Books of the particulars of the Purchase—Examination of the Cash Book—Of the Vouchers — Documents should be arranged for the Inspection of the Auditor—Reconciliation of the Balances of the Cash Book and Bankers' Pass Book—Examination of the Subsidiary Books—Continuous Audit—Audit of Accounts of Executors and Trustees.

Intimation should be sent to the Auditor when Accounts are ready.

When the Accounts of a public Company, Institution, Local Authority, Firm, or Individual are ready for the periodical audit, it is usual to communicate with the Auditor to that effect, who thereupon fixes a time when he will attend for the purpose of commencing his investigation, as an Auditor has nothing to do with the preparation of the Accounts to which he affixes his certificate as Auditor.

In the case, however, of firms, individuals, and of Executors or Trustees, it is the practice for the Auditor to prepare the Accounts ultimately signed by him from the books, but in this case he acts more as a Professional Accountant than as an Auditor.

Nature of an Audit.

Before giving a detailed description of the duties it is usually incumbent upon an Auditor to fulfil, it is desirable to state shortly the nature of an audit, in order to correct two widely different ideas which prevail, one, that this is represented by checking the Ledger balances into the Balance Sheet, the additions in the Cash Book, the postings therefrom and the other books into the Ledger, and comparing the payments made with the vouchers produced ; and the other, that an Auditor has to

go through every item entered in the Books of Account for a fee which represents an infinitesimal portion of the salaries paid to those who make these entries.

When auditing was in its infancy, that is, when the audits were performed exclusively by those who were elected to the office solely because they happened to be shareholders or partners in the concern, the checking the payments as shown in the Cash Book with the vouchers, agreeing the cash balance with that shown in the Bankers' Pass Book, checking the ledger balances into the Trial Balance, and therefrom into the Accounts presented to the shareholders, was practically looked upon as the sole duty of an Auditor, in other words, the audit was merely mechanical.

Impossible for Auditor to check every entry.

Much more is expected, however, from the professional Auditor, and, in the legal decisions which have been given in connection with their duties, it is quite clear that not only do the general body of shareholders expect more than they did from the Auditor, but their expectations have been endorsed by the Judges, including those of the Court of Appeal. At the same time it is admitted that it is absolutely impossible for an Auditor to check all the items of the books, and, in fact, it would be impossible for him to do his duty were he not able to rely with some degree of confidence upon what are known as "Internal Checks," that is, checks performed in the offices of large Companies by one set of clerks having no connection in their ordinary daily work with the other departments over which they exercise this supervision.

Internal Checks.

For example, it is the custom in many large concerns for the clerks who receive money, either in cheques or cash, to enter the amounts received in a rough Cash Book, and they have no further control over or further connection with the carrying of the entries relating thereto. The taking of these cheques and paying them into the bank is performed by another official, whose entries are subsequently checked by a third official against the rough or counter Cash Book of the clerk who receives the money.

This is merely one example of what is known as an "Internal Check," but there are well-known general instructions, which are recommended by professional Auditors, which should be carried out in the offices of every Company, and in the offices of every mercantile firm, except those whose transactions are on such a small scale that they can be supervised by the principals.

Where a good system is not prevalent the following recommendations should be made by the Auditor, although, of course, it does not fall within his province, strictly speaking, to make these recommendations, and he has no power to enforce them. In the Companies Act, 1900, however, special power is put into the Auditor's hands, by means of the Report which he has to address to the shareholders, partaking of the nature of a private and confidential communication to them, in which he can inform them, without doing any injury whatever to the Company, that certain suggestions have not been carried out to his satisfaction. Suggestions by Auditor.

All cash received should be paid into the bank, and no deductions whatever should be allowed for petty cash, for which cheques for round sums should be drawn. All payments above a certain amount, varying according to the magnitude of the transactions of the business, should be made by cheque. By this means the Cash Book can be checked in detail with the Bankers' Pass Book.

Counterfoil Receipt Books should be used for giving receipts, in place of allowing the Cashier or any other official to give receipts on the invoices themselves.

The Cashier should be instructed to obtain vouchers for payments of every kind made by him, including petty cash payments.

In all manufacturing and trading concerns Stock Accounts should be kept, and, if possible, in sterling, as well as in weight or quantity.

When these Accounts are kept in sterling they can be introduced into the system of book-keeping, but the weights and quantities should be also entered, for the

purpose of their being checked at the time of the periodical stocktaking.

An audit, to be effectual, that is, to enable the Auditor to certify as to the accuracy of the Accounts presented, may for practical purposes be divided into three parts, namely, to guard against (1) Errors of Omission ; (2) Errors of Commission ; and (3) Errors of Principle.

Errors of Omission.

With regard to "Errors of Omission," each item which appears either on the debit side of the Balance Sheet or the Cash Book should be checked as far as possible by an original document obtained from an independent source, in order to ascertain that the Company has charged itself with all cash received or liability incurred.

For example: In the case of the first audit of a Company's Accounts it is necessary to check the applications for shares and letters of allotment against the amounts shown in the Cash Book as having been received on capital account, and to finally ascertain that they appear among the liabilities to shareholders in the Balance Sheet.

In regard to the liabilities in respect of purchases, the postings in the Ledger should be checked through the subsidiary books, so as to ascertain that the balances representing the Accounts unpaid at the date on which the books are closed are all brought to the debit side of the Balance Sheet.

In the case of a Railway Company, when surplus lands have been sold, the Auditor should ascertain that the actual purchase money has been debited in the Cash Book. This could be proved from various independent sources, such as the Solicitor's bill of costs, showing the entries relating to the conveyances, or the conveyances themselves, or copies thereof could be produced.

If any of the investments of a Company have been sold, the Auditor is able to ascertain from the correspondence, or from the broker's notes, that the full

amount which they had realised had been properly entered in the Cash Book.

For the purpose of satisfying the Auditor that the Dividends stated to have been received on investments are correct, the notices which are invariably received from Railway and other Companies affixed to the Dividend warrants should be produced to him.

The examination of Departmental Cash Books, Counter Cash Books, Counterfoils of Receipt Books, and Collectors' Books frequently enables an Auditor to detect the omission of cash receipts, which he would never ascertain were he to rely solely on the entries in the principal Books of Account.

Errors of Commission.

"Errors of Commission" may be either accidental or intentional; in the former case it is a comparatively simple task to detect any errors of this nature that may exist, as it is a mere mechanical process to check the items of one book with the corresponding items of another, until they are brought into the Ledger, and from thence finally carried into the Revenue or Profit and Loss Account and Balance Sheet, or to compare the amounts taken credit for as payments with the vouchers produced.

Entries in books of Account made with intent to deceive or defraud are not so readily detected, and the work may be so skilfully done as not to excite any suspicion in the mind of the Auditor. As a rule, however, an Auditor of experience knows intuitively when a deliberate attempt is made to deceive him, and he should in such circumstances go beyond the ordinary tests applied by him in his audit in his endeavours to ascertain the correctness or otherwise of the Accounts. In this he must, of course, be guided by his experience, and not by ordinary rules.

Errors of Principle.

When the Auditor is a Chartered Accountant, the details of the audit, such as checking the items from one book into another, examining the vouchers, &c., are usually entrusted to clerks working under his superintendence, the Auditor reserving for himself the duty

of ascertaining if any "Errors of Principle" have been committed.

For example: The Auditor should ascertain that the authorised capital of the Company, both share and loan, has not been exceeded. That expenditure which ought properly to be charged against the Revenue Account has not been capitalised. That the funds of the Company have not been invested in prohibited securities, and generally that the Statements presented to the shareholders not only agree with the books of the Company, but that the transactions, the financial results of which are recorded in these Accounts, have been in conformity with the public law and the private statutes of the Company, and if the forms of account to be presented to the shareholders are prescribed by law the Auditor should endeavour to induce the Directors to present the Statements prepared in the statutory form.

A List of the Books of great service to the Auditor.

The Auditor, before entering upon the duties of his first audit of a Company's Accounts, will find it very useful to have in his possession a complete list of the books in use by the Company, both financial and statistical.

A careful perusal of this list will, in conjunction with any verbal explanation he may think it advisable to obtain from the officials, make the Auditor acquainted with the nature of the business, and also with the system on which it is conducted and its transactions recorded, which knowledge an Auditor will consider most essential he should obtain before commencing his examination of the books.

Auditor should be provided with a Copy of the Regulations.

The Secretary should also be requested to supply him with a copy of the original prospectus if the Company be a new one, a copy of the Memorandum and Articles of Association should the Company have been registered under the Companies Act, 1862, a copy of the Act if the Company has been incorporated by special Act or Acts of Parliament, or a copy of the Rules in

the case of a Society registered under the Building Societies Act or the Friendly Societies or Industrial and Provident Societies Acts.

These should be carefully perused, and special notice should be taken of those sections which in any way relate to or have any bearing on the Accounts of the Company or Society, or the duties of the Auditors.

"Auditors are bound to see what exceptional duties, if any, are cast upon them by the Articles of the Company whose Accounts they are called upon to audit. Ignorance of the Articles, and of exceptional duties imposed by them, would not afford any legal justification for not observing them."—*In re Kingston Cotton Mill Co.* (No. 2) [1896] 2 Ch. 284.

Should the Articles of Association not impose any exceptional duties upon the Auditor, he will, of course, be guided by the public Acts under which the Company or Society is registered, the sections of which demanding his attention will be found in Chapter III.

When special instructions are given in the Articles of Association, or in the private Acts or Rules, as to how the Accounts are to be presented to the shareholders, and how they are to be certified by the Auditor, the sections containing these instructions are the regulations to which he is to conform. If they only give partial directions they are to be read in conjunction with the public Acts.

No part of Auditor's Duty to give Advice.

"It is no part of an Auditor's duty to give advice, either to Directors or Shareholders, as to what they ought to do. An Auditor has nothing to do with the prudence or imprudence of making loans with or without security. It is nothing to him whether the business of a Company is being conducted prudently or imprudently, profitably or unprofitably. It is nothing to him whether dividends are properly or improperly declared, provided he discharges his own duty to the Shareholders. His business is to ascertain and state the true financial position of the Company at the time of the audit, and his duty is confined to that."—*In re London and General Bank* (No. 2) [1895] 2 Ch. 682.

Investigation of the Capital Account.

At the first audit of the Accounts of a Company the Share Capital Account should be investigated, and the Auditor should ascertain that the share and loan capital is not in excess of the amounts authorised by the Articles of Association or the private Acts by which the Company has been incorporated.

Prospectus

The contract existing between a Company and its original shareholders is almost invariably represented by a prospectus, which is accompanied by a form of application for shares. The latter usually consists of two parts, one being the actual application for the number of shares the applicant wishes to acquire in the Company. This is signed by him and addressed to the Directors, informing them that he has paid to the Bankers of the Company the application money on the number of shares applied for, and requesting them to allot him these shares, also agreeing to become a member of the Company in respect of such shares in accordance with the terms of the prospectus, or in respect of any less number the Directors may allot in respect of such application, and authorising his name to be placed on the Register of Members for the shares so allotted.

Application for Shares.

The other part of the form of application is the Bankers' receipt, which is forwarded by the applicant for shares to the Bankers of the Company, together with the amount which the prospectus states must be paid on application for shares, in order to treat the application as *bonâ fide*, and one on which the Directors would feel justified in making an allotment.

Letters of Allotment.

The Bankers' receipt is signed by the Bankers, returned to the applicant, and is retained by him. The applications for shares are placed before the Board, who pass a resolution as to the shares to be allotted, and letters of allotment are forwarded to those whose applications are accepted.

Share Certificates.

When the share certificates have been prepared they are forwarded to the shareholders in exchange for the letters of allotment. These, together with the applications

for shares, should be filed in the offices of the Company. By these means the contract between the shareholder and the Company is made complete, and the evidence on which the contract is based is duly recorded.

Frequently, in small Companies, the prospectus directs that the payments on application are to be sent to the office of the Company. The Auditor should then be particularly careful to ascertain that they have been properly accounted for.

Entries in the Books of Account of particulars of the Purchase Money.

The Auditor should also see that proper entries have been made in the Books of Account for recording the particulars of the purchase of any property or business, to acquire which the Company was formed, also any charges there may have been on the property at the time of its passing into the possession of the Company. Although not part of his duty, it is desirable he should also ascertain that all Mortgages, or bonds issued of the nature of a mortgage, are duly recorded and registered in accordance with the Acts.

Also of Mortgages.

Examination of the Cash Book.

In auditing the Cash Book the debit or income side should be checked with the most independent source the Auditor can find available—for example, the counterfoils of Receipt Books, a Counter Cash Book, the Customers' Pass Books of a Bank, or the Depositors' Pass Books of a Building Society.

Of the Vouchers.

The items on the credit side of the Cash Book should be checked with the vouchers for the payments. This, of course, although requiring care and attention, is a mere mechanical process ; but, unfortunately, among unprofessional Auditors is considered their sole duty.

The perusal of this treatise will, however, it is hoped, correct this impression, and show that an effectual audit of the Accounts, whether of a Company or any other institution, involves a far greater amount of experience, skill, and labour than is required for the mere checking and vouching the expenditure of the cash, and ascertaining that the Accounts as presented agree with the books kept by the officials.

Vouchers should be filed.

The Auditor has a right to demand that the vouchers shall be either kept in a Guard Book or filed in some other way, in the order of the corresponding entries in the Cash Book, so as to facilitate ready reference, and to prevent his time being unreasonably taken up by his having to search for each voucher.

Documents required by the Auditor should be arranged.

It may be here remarked that the Auditor will find it greatly facilitate his work if he makes it a rule not to accept any papers handed to him for his inspection which are not properly arranged. Should his requirements in this respect be not complied with, he should, first of all, complain to the Directors, and, if he obtains no redress, he should make a statement to this effect in his Report.

It very frequently happens, especially in the offices of small concerns, that, on the Auditor asking for the vouchers for the cash payments, he is handed a bundle of receipted accounts, and on attempting to check them with the Cash Book he ascertains many are missing. Much time is, in consequence, lost in looking for these, or in obtaining duplicates, while, if the vouchers were previously arranged, missing ones would be found or fresh ones obtained before the commencement of the audit.

Vouchers should consist of actual Receipts.

The vouchers should principally, if not entirely, consist of actual receipts, and in checking the payments to merchants or tradesmen, with the exception of those made by bills payable, the Auditor should require the receipts to be produced. In certain instances, however, secondary evidence, such as the endorsements on the cheques, may be accepted as sufficient proof that the money has been paid to the persons indicated, but endorsed cheques are merely evidence that money has been paid to the endorsees, they are not legal receipts for money paid.

Beyond requiring proof that these persons have received the money, the Auditor should endeavour to satisfy himself that the expenditure has been charged against the proper Accounts. Unless this is done, items which should be charged against revenue might be posted to a wrong

Account, and subsequently improperly included in the credit side of the Balance Sheet.

The Vouchers for purchases should consist not merely of printed receipts, but should, if possible, be accompanied by the invoices and statements, more especially when the entry in the Cash Book is posted direct to an Impersonal Account in the Ledger. In large concerns, however, this is frequently impossible, but in these cases there is, as a rule, an independent office check.

Payments for wages are usually vouched by the production of a "Wages Book" or "Wages Sheet," in which each workman signs his name opposite the amount stated to have been paid him, and the book is also usually certified by other officials, such as—

(*a.*) The foreman, who is responsible for the employment of the men and the rate of pay due to each; when the men are paid by time, the time charged for should be checked from the timekeeper's book.

(*b.*) The clerk, who is responsible for the extensions, calculations, and checking of the wages sheet.

(*c.*) The clerk responsible for the actual payment of the wages, after the deductions of any payments made in advance.

The Auditor must be guided by the circumstances of each case as to what extent his staff shall check the postings or transfers from one book to another, also as to what extent they shall check the additions. It is advisable to have a recognised "tick" for each class of check, and if after the books have been checked an unticked item appears on those pages where all entries should have been called over, an Auditor, or the Managing Clerk representing him, should never assume that the item has been not ticked through the carelessness of his clerk, but should carefully re-examine the entries.

Reconciliation of the Balance of the Cash

The balance, as shown in the Cash Book, should be checked with the balance in the Bankers' Pass Book. These are very seldom identical, as cheques drawn on or

Book and of the Bankers' Pass Book.

even before the day on which the books are closed may not have been presented for payment, neither will the bankers, unless a special arrangement has been made with them, have given credit for country cheques not cleared on that day.

In order to facilitate checking these balances, a Reconciliation Statement, which may be entered in the Cash Book, should be prepared for the Auditor. This should commence with the balance as shown in the Cash Book, to which should be added the amounts of the cheques outstanding. From the total thus obtained should be deducted the amount of the cheques paid into the Bank not given credit for in the Pass Book, and the result should be a balance identical with that shown in the Pass Book.

Ledger Balances.

In comparing the balances taken out of the Ledgers into the Trial Balance, the balances should be checked at the same time the addition of each Ledger account has been checked, so as to avoid any entries being made in the Ledger accounts between the checking of the additions and the taking out of the balances.

Journal.

The Journal should be carefully perused, as through it transfers are made from one Ledger account to another, frequently very incorrectly. A properly-kept Journal affords full information to an Auditor for a transfer of this description, but the "narrative" is occasionally intentionally meagre when it is desired to conceal the true reason of the entries ; this absence of information should put an Auditor on inquiry.

Examination of the Subsidiary Books.

The Auditor must use his own discretion, guided by his experience, as to how far it may be necessary to check the details found in subsidiary books. As previously stated he should make as much use as possible of documents obtained from independent sources to guard against errors of omission.

When once an entry of any transaction is made in the books it may be said to come under the cognisance of the Auditor, and a perfect balance can only be obtained

by each of these entries being carried forward, step by step, into the Ledger. The Auditor, has, however, to guard against their being carried to a wrong Ledger account, and also any other inaccuracies in the posting.

General Duties.

As regards the general duties of Auditors in connection with their examination of the books, Lindley, M.R., in an important judgment, remarked : "An Auditor, however, is not bound to do more than exercise reasonable care and skill in making inquiries and investigations. He is not an insurer ; he does not guarantee that the books do correctly show the true position of the Company's affairs ; he does not even guarantee that his Balance Sheet is accurate according to the books of the Company. If he did, he would be responsible for error on his part, even if he were himself deceived without any want of reasonable care on his part, say, by the fraudulent concealment of a book from him. His obligation is not so onerous as this. Such I take to be the duty of the Auditor : he must be honest—*i.e.*, he must not certify what he does not believe to be true, and he must take reasonable care and skill before he believes that what he certifies is true. What is reasonable care in any particular case must depend upon the circumstances of that case. Where there is nothing to excite suspicion very little inquiry will be reasonably sufficient, and in practice, I believe, business men select a few cases at haphazard, see that they are right, and assume that others like them are correct also. Where suspicion is aroused, more care is obviously necessary ; but, still, an Auditor is not bound to exercise more than reasonable care and skill, even in a case of suspicion."—*In re London and General Bank* (No. 2) [1895] 2 Ch. 683.

Continuous Audit.

An audit is said to be "continuous" when the Auditor, instead of commencing his duties after the Accounts have been submitted to him for audit, pays weekly, monthly, or other periodical visits, and checks the books, vouchers, &c. There are many advantages attendant on a continuous audit, errors are rectified at an earlier date, and are also

more readily discovered, book-keepers are not allowed to let their work fall into arrear, and the audit can be completed at an earlier date after the close of the financial period ; but the one very serious objection to a continuous audit is that the figures can be altered after the books have been checked. The only perfect system of audit is, therefore, a continuous audit supplemented by the usual audit, the expense of which few Companies, firms, or institutions care to incur.

Audit of Accounts of Executors.

In auditing the Accounts of Executors or Trustees under a Will, the Auditor should in the first place be supplied with a copy of the Will. This he should peruse, and take notes of any entries found therein bearing upon his duties, such as references to legacies, annuities, specific bequests, directions as to special trusts, &c.

The audit of the Accounts of Executors and Trustees does not in any way relieve them from the responsibility of their acts should they have acted illegally.

The Accountant of Court, Scotland, who, as to the matter referred to below, fills a similar position to that of a Master in Chancery under the Judicial Trustee Rules, 1897, has no power to approve of an improper investment.

By Section 3, Subsection 10, of the Trusts (Scotland) Amendment Act, 1884, Trustees, including Judicial Factors and Curators Bonis, are authorised to lend trust money in loans on real or heritable security ; and, by Subsection 12, in loans on debentures secured on rates or taxes levied under statutory power by Municipal Corporations.

A Curator Bonis invested his ward's money on a Bond of the Greenock Harbour Trustees, a Corporation consisting of the Magistrates, the Council, and elected Trustees. As security, the Trustees assigned to the Curator Bonis the "rates and duties and other revenues of the Harbour," but no right of obtaining possession of the works on default of payment was given. The Accounts of the Curator Bonis were audited by the Accountant of Court, and passed without comment. The Harbour Trustees made default in payment of interest.

The House of Lords held (1) that the investment was not a real or heritable security ; (2) that it was not a debenture created by a Municipal Corporation ; (3) that, looking to the previous Statement of Accounts of the Harbour Trust, it was not a security a prudent Trustee ought to have invested his ward's money in ; and (4) that the annual audit of the Accountant of Court did not exonerate the Curator Bonis from liability.—*Hutton v. Annan* [1898] A.C. 289.

CHAPTER IX.

THE REVENUE ACCOUNT.

Explanation of the Revenue Account—Difference between Revenue Account and Cash Account—Trading Account—Profit and Loss Account—Trading Account of a Manufacturer—Best method of stating a Revenue Account—Stock in hand at commencement of the Period—Purchases—Claims under Policies—Interest on Debentures—Interest on Mortgages—Interest on Calls—Amount written off Leasehold Property—Royalties—Dead Rent - Expenses of Management—Resolution of the Council of the Institute of Actuaries—Directors' Fees—Salaries—Wages—Commission—Rent, Rates, Taxes, &c.—Repairs and Renewals—Amount written off for Depreciation—Loss on Realization of Securities—Debts irrecoverable—General Expenses—Brokerage—Commission for Underwriting, &c.—Amount written off Preliminary Expenses—Interest to Shareholders—Dividends on Preference Shares—Auditor should resist proposal to pay Dividends out of Capital—Income side of the Revenue Account—Sales—Premiums—Shares in other Companies—Interest on Investments—Transfer Fees—Traffic and other Receipts—Exchange—Premiums on Shares—Stock in hand at end of the Period—Balance of the Revenue Account.

Explanation of the Revenue Account.

THE Revenue Account, also called a Profit and Loss Account, is, as its latter name implies, a statement showing either how the profit has been earned or the loss has been incurred on the operations of the Company, Society, Firm, &c., for the period brought under the notice of the Auditor.

The title Revenue Account is, perhaps, a more comprehensive one than that of Profit and Loss, and is adopted in this work as it is the one which usually appears on the published Accounts of Public Companies.

There is, however, technically speaking, a distinct difference between a Revenue Account and a Profit and Loss Account, as the former should only be so styled when the income is derived from investments such as rents, royalties, dividends, and other items of this nature, while a Profit and Loss Account shows the financial result of a trade or venture.

Difference between Revenue Account and Cash Account.

The difference between a Revenue Account and a Cash Account has already been explained, but it may be here stated that whereas the latter only shows the actual amount of cash received and paid away, the former shows, on the credit side, the income or the earnings, irrespective of whether the same has been actually received, or at the date of closing the books is due, while on the other or debit side are set forth the expenses, irrespective of whether they have been paid or are owing at the same date.

The balance of these two sides, therefore, shows whether the transactions of the period have resulted in a profit or a loss according as the credit side or the debit side is respectively the greater.

Trading Account.

The Revenue Account of a trading Company usually comprehends the two statements known among Accountants as a Trading Account and a Profit and Loss Account. The former shows the gross profit or the gross loss of the period, being the difference between the amount of stock in hand at the commencement of the period, purchases, wages, and other expenses incidental to production, as against the sales and the stock in hand at the end of the period.

Profit and Loss Account

The balance of this Account is carried forward to the Profit and Loss Account, and is then charged with the general expenses incidental to carrying on the business. The balance, after bringing in these charges, shows the actual or net profit, or the loss, of the period.

Trading Account of a Manufacturer

In auditing the Accounts of a Manufacturer or of a Manufacturing Company, the Auditor should impress upon his client the great desirability of carefully separating the Expenditure between Cost of production and Cost of distribution.

The cost of production will be covered by the Manufacturing Account, to which should be debited the materials consumed, and the wages paid for the production of saleable goods ; and there should be added thereto all such expenses as rent, rates, and taxes on the buildings

containing the machinery for production, the rating of such machinery, the depreciation thereupon, and, in some cases, the packing or otherwise preparing for the market the manufactured article. Some careful persons pursue even greater exactitude, and charge the same Account with interest upon the Capital embarked in Stock held from time to time, and in the buildings and machinery of the works. These total debits together form the actual cost of manufacture, the results of which are to be found on the opposite side of the Account, in the form either of Sales, or of Stock remaining on hand. Accounts such as the one here described, if kept exactly, enable a Manufacturer to know exactly the percentage of his gross profit over a term of years, and prove very valuable for purposes of comparison.

The Cost of distribution will fall under the heading "Profit and Loss Account," the credit of which will be the Gross Profit brought from the Manufacturing Account, and the debit will include the salaries and wages of Clerks and Warehousemen engaged in sending out the goods, the cost of books and stationery for recording the same, the salaries and expenses of Travellers, the outlay on advertisements, and general trade expenses, and the balance of this Account will be the net Trading Profit ; here, again, the continuance of accounts accurately divided provides information as to the percentage of expenses, and enables the Manufacturer to watch and consequently control such expenses.

Best method of stating a Revenue Account.

The best method, therefore, of stating the Revenue Account or Profit and Loss Account of a trading, manufacturing, or mining Company is to divide it into three sections, the first showing the gross profit or loss, the second the net profit or loss (as the case may be) of the period, while in the third should be set forth, as explained hereafter, the balance of this and previous Revenue Accounts, and the dividends paid to shareholders, resulting in an actual surplus or deficiency to date of the transactions of the Company.

It is quite impossible to discuss in detail every description of income and expenditure which can possibly come under the notice of an Auditor, for as almost every class of business is registered under the various Joint Stock Companies Acts, such may almost be said to be innumerable. The most familiar headings, however, which occur in the Revenue Accounts of Companies are treated in the present chapter, the remarks on one or more of which will afford assistance to an Auditor requiring information as to how an item of receipt or expenditure, not specially referred to, should be treated.

It, of course, comes within the province of an Auditor's duty to ascertain that the various items of expenditure are stated under the proper headings, for although an incorrectness in this respect would not affect the net result, yet shareholders have a right to know the exact manner in which their revenue has been expended, and to have the opportunity of refusing to pass an improper outlay.

Stock in hand at commencement of the period.

Commencing with the debit side of the Revenue Account, in all trading Companies the first heading is usually the Stock in hand at the commencement of the period which comes under the investigation of the Auditor.

In the case of a new Company this item will not, of course, appear; and when a Company has previously published a Revenue Account, the duty of the Auditor is confined to merely ascertaining that the figures coincide with those under the heading of "Stock in hand" at the date to which the previous Revenue Account was made up.

The figures, as certified by him or by a previous Auditor and adopted by the shareholders at their meeting, cannot be afterwards altered; but should the Auditor ascertain that any figures in the previous Accounts are inaccurate, he should either require a correcting entry made in the Accounts he is auditing, or else he should call attention to the fact in his Certificate or Report, as an explanation why the apparent profit or loss, as the case may be, has been

unduly increased or diminished by the inaccuracy of the previous Accounts presented to the shareholders.

Purchases.

The item naturally coming after the stock-in-trade is that representing the additions made to it during the period embraced by the Revenue Account. The single word "Purchases" is the usual heading, under which is included the cost of the goods purchased which are intended to be resold at a profit. The amounts paid for plant, machinery, office furniture, &c., necessary for the purpose of carrying on the business, do not appear in the Revenue Account.

In accordance with the theory (already explained) on which the Revenue Account is prepared, it is, of course, immaterial whether the goods purchased had been paid for at the date of closing the books or were still owing for. The total amount has to be included under "Purchases," and the amounts outstanding will be found among the liabilities in the Balance Sheet under the heading "Creditors."

Claims under Policies.

In Insurance Companies of every description, life, fire, accident, marine, guarantee, burglary, &c., the principal charge against the Revenue Account consists of the "claims" under its Policies, and in dealing with this item the Auditor has to be careful that not only those claims which have been made during the period, and in respect of which the stipulated amount of compensation has been paid, are included under this heading, but also in addition those that had been notified to the office.

It is impossible to lay down any rules to be followed by an Auditor by which he may ascertain that all the claims received have been entered in the "Register of Claims" and charged against the Revenue Account. Instances have occurred of Managers concealing letters announcing heavy losses until after the books have been closed, and experience only can guide an Auditor in the discovery of a fraud of this nature.

The Auditor may, at his discretion, allow a deduction to be made in respect of any claims which the Company

do not admit themselves liable to pay, and which they intend to resist. The opinion of the Company's Solicitor would be of assistance to the Auditor in determining the amount to be thus deducted.

All amounts included under the above heading, which have not been paid at the date on which the Books are closed, must, of course, be brought into the Balance Sheet as a liability.

Interest on Debentures.

When a Company has borrowed money on Debentures the holders of these Debentures are creditors of the Company, and, therefore, the interest payable to them must be kept distinct from that paid to the shareholders, which represents payment on account of profits.

The former must be charged against the Revenue Account before the profits, out of which Dividends can only properly be paid, are ascertained. The interest paid to the Debenture-holders is not dependent on profits, and the rate per cent. is arranged at the time of issuing the Debentures.

On Mortgages.

The same remarks are applicable to the interest payable to those who have advanced money to the Company on ordinary mortgages of its property.

On Calls paid in advance.

The Articles of Association of Companies registered under the Act of 1862, usually authorise the Directors to receive from any Member, willing to advance it, all or part of the money due upon the shares held by him beyond the sums called, and to pay interest on the money so paid in advance at such rate as shall be agreed on. Such interest is payable out of the general assets of the Company, including its available capital, and not merely out of profits.—*Dale v. Martin*, 11 L.R. Ir. 371, C.A.

Amount written off Leasehold Property.

When leasehold property forms part of the assets of a Company the Auditor should be satisfied that a sufficient portion has been written off each lease and charged against the Revenue Account, so that a proportionate decrease takes place each year in the amount standing at the credit of the account of each lease in the books of the Company until its expiration. This statement is, however,

subject to the remarks which will be found later on in this chapter under the heading of "Amount Written Off for Depreciation," in connection with the case of *Lee v. Neuchatel Asphalte Company*, 41 Ch. D. 1.

Leasehold property may be held by a Company either as an investment or for occupation. In either case the above remark applies, while the rents received from the investment, after deducting the incidental expenses, such as law costs, repairs, rates, taxes, &c., should be included among the income. When a Company occupies its own leasehold premises, the proportion written off is equivalent to a rent, and should be treated accordingly.

A table for calculating the amount to be set aside annually in order to exhaust a lease will be found in the Appendix, with directions explaining how it is to be used, also an example in the form of a Ledger Account showing how a lease is gradually exhausted in this manner. The interest calculated on each balance brought down and debited to the Lease Account is, of course, taken credit for in the Revenue Account among "Interest on Investments."

Royalties. The Revenue Account of Mining Companies should be charged with the royalties (sometimes called tentail or acreage rents) payable in respect of all minerals

Dead Rents. sold during the period under audit. Any dead rent (sometimes called certain or minimum rents) for the same period should also be charged against the Revenue Account, but the Auditor may allow the Company to take credit in the Balance Sheet for any dead rent so charged, which it is expected will be recouped out of royalties before the limit of time allowed for that purpose in the Lease shall have expired.

Expenses of Management. With reference to the expenses of management, it is usual in large Companies to place Directors' fees, salaries, wages, and general office expenses under one head, but in small Companies they are generally set forth in detail in the Revenue Account.

In either case the Auditor should be equally careful

to ascertain that all the expenses are included. As already explained, it does not affect the amount, which should be here set forth ; whether all the items have been actually paid or not, settled or still owing, they must all be charged against the Revenue Account.

Very often an attempt is made, especially in the first Revenue Account of a Company, to omit certain charges on the ground that they have not been paid, or that the exact amounts are not known or have not been agreed upon. This the Auditor should strenuously resist, and should defer the completion of the Accounts until the doubtful amounts have been ascertained or a satisfactory estimate has been made, and the amount included in the Revenue Account.

Resolution of the Council of the Institute of Actuaries.

With reference to the Revenue Accounts of Life Assurance Companies, the following resolution was passed at a meeting of the Council of the Institute of Actuaries in consequence of an inquiry made of them by the Board of Trade :—

"That in the opinion of the Council, every expense, of whatever kind, incurred by a Life Assurance Company for the purpose of promoting, carrying on, or extending the business of the Company, should, with the exception of Commission, be included under the head of 'Expenses of Management' in the Accounts registered in conformity with the Act."

The following remarks on the various expenses incidental to the conduct of the business of public Companies are equally applicable, whether they are set forth in detail in the Revenue Account or are embraced under one comprehensive heading, such as, for example, "Expenses of Management."

It has just been remarked that very frequently in preparing the first Revenue Account of a Company the officials, in order to make it appear as favourable as possible, leave out charges on the ground that they have not been paid, or perhaps even not ascertained ; this remark is applicable to Directors' fees.

Directors' Fees.

Now, on the principle previously laid down that a Revenue Account is a statement of the actual income and expenditure of the period, and not of receipts and payments, this explanation should not be considered satisfactory by the Auditor; and unless the Board actually pass a resolution at one of their meetings, which is entered in the minute book in the usual way, that they do not intend to receive any remuneration for their services to the date on which the Accounts are made up, the Auditor should, either on the Revenue Account itself, or in his Report, call attention to the fact that the profit shown is subject to the amount to be paid to the Directors.

Amount sometimes settled by Private Act or Articles of Association.

Sometimes the amount of the remuneration of the Directors is fixed by the private Acts or Articles of Association, which may be either a stated sum or a commission on the sales, income, gross profit or net profit, &c., or even a combination of these. When this is the case it is easy to determine the amount to be charged in the Accounts, and if the Directors have not received it they must be included among the creditors of the Company in the Balance Sheet for the sums due to them respectively.

Sometimes left to Shareholders.

Frequently the remuneration of the Directors is left in the hands of the shareholders, to be voted at their General Meeting. It is then, however, usually arranged previously what amount the shareholders will vote, in which case it may be inserted. In any event, however, when the actual sum is not known, an estimated amount should be charged against the Revenue Account, which must certainly make this Account more accurate than it would be by omitting the item altogether, or, failing this, the Auditor should, as already stated, specially report to the shareholders the omission and point out that the profit will be reduced by any sum voted to the Directors, or if there be a deficiency that it will in the same manner be increased.

Presents to Directors.

The assets of an incorporated company, though a

private company, are not the property of the shareholders for the time being, and if the Directors misapply those assets by applying them to purposes for which they cannot be lawfully applied by the Company itself, the Company, upon being properly set in motion, can make them liable. Directors cannot pay themselves for their services, or make presents to themselves out of the Company's assets, unless authorised to do so by the instrument regulating the Company, or by the shareholders at a properly convened meeting.—*In re George Newman & Co.* [1895] 1 Ch. 674.

Income Tax on Directors' Fees.

Directors who receive the maximum remuneration allowed by the Articles or voted by the shareholders are not entitled to pay out of the funds of the Company the income tax payable on their fees, as these fees are chargeable with duty under the Income Tax Act, 1842. A clause even in the Articles of Association cannot legally sanction the payment of income tax by the Company, for as by the Act "All contracts for the payment of any such annual payment in full, without allowing such deduction for duty, shall be utterly void," anything which constitutes a contract to pay the remuneration of Directors without the deduction of the duty must be void.

There does not appear, however, any reason why Shareholders should not permit the payment of the income tax, and therefore if they pass a resolution voting the fees "free of income tax" the Auditor may safely pass the payment without comment.

Salaries.

Wages.

The remuneration of the Secretary, Manager, Clerks, and other officials on the regular staff of the Company is usually included in one sum among the outgo of the Revenue Account, under the heading "Salaries," and should be kept distinct from the sums paid as wages to workmen, artisans, mechanics, and others, whose remuneration is contingent on the quantity of work done, and fluctuates accordingly.

Directors' fees should never be included with the salaries, but the fixed remuneration of a Managing Director always should be unless stated separately.

Frequently a Manager and other officials are paid entirely by a commission, or are allowed, in addition to their fixed salary, a commission on the amount of the business done by the Company or in a particular department. In either case the commission should never be included under the heading of "Salaries." The amount should either be added to "Commission," or else stated by itself.

When a bonus is given to the officials the amount should either be stated separately or the heading should be extended to "Salaries, including Bonuses to Officials." This remark applies to any pensions paid to retired officials of the Company.

Commission. When commission is paid, for influencing sales, or any description of income, the amount so allowed should either be stated by itself or else (except in the Revenue Accounts of Companies transacting Insurance business) included in the general heading, "Expenses of Management."

Commission should never be deducted from the sales, or from any other source of income, for securing which the commission is allowed.

The amount stated in the Revenue Account as commission must consist not only of that which has been actually paid, but must also include any remaining unpaid in respect of the income taken credit for. To ascertain this sum precisely is often a troublesome task for the Auditor, as frequently attempts are made to omit or understate the amount of commission which has not been actually paid in order to increase the apparent profits.

When an agent or traveller has received money in advance to be deducted from commission expected to be earned by him in the future, that portion only which has been earned on income taken credit for in the Revenue Account should be charged. The balance should be treated as an ordinary cash advance, and the agent should be included among the debtors on the

credit side of the Balance Sheet for the unearned portion of the commission.

The Auditor should ascertain that the commission has not been participated in by any person acting in a fiduciary capacity towards the Company, unless this is expressly provided for in the Special Acts of Parliament or in the Articles of Association. This remark applies also to brokerage for placing Share Capital, Debentures, &c.

Rent, Rates, Taxes, &c.

Under the heading of "Rent, Rates, Taxes, &c.," should be included the rent of all offices and premises on which the business of the Company is transacted, together with the rates and taxes incidental thereto, but it should not include the rent paid for premises which are sub-let to other tenants.

In other words, when only a portion of the premises of which the Company are tenants are used by it as their place of business, and the remainder is sub-let, there should only be included under the heading "Rent, &c.," the difference between the rent paid by the Company and that received from its sub-tenants. It would, therefore, be wrong to put the rents received from the Company's sub-tenants of their actual business premises on the income side of the Revenue Account, and the entire rent for the premises on the expenditure side. The heading "Rent, Rates, and Taxes" consequently refers only to those amounts which might be included under the heading "Expenses of Management."

Repairs and Renewals.

The amount which ought to be charged against the Revenue Account of Companies possessing plant, machinery, buildings, &c., for repairs, frequently requires very careful attention by the Auditor.

Unless a Company is in a flourishing condition, there is a great tendency to add to the account in the books, representing the property, those sums which have actually been expended in repairing or replacing part of them, and which ought, therefore, to be included in the

expenditure side of the Revenue Account under "Repairs and Renewals," or some similar heading.

This the Auditor must not allow, the necessary buildings having been erected, and the plant and machinery purchased, the Accounts representing the expenditure thereon should be closed, and no additions permitted, unless sanctioned by the Memorandum and Articles of Association. Should the business, however, increase and additional buildings and machinery become necessary, the further expenditure on this Account may, of course, be similarly treated, but the whole of the money laid out for keeping them in order must be charged against the Revenue Accounts.

In exceptional cases, as, for example, if the sum expended on repairs and renewals be very heavy in any one year, and the Auditor is satisfied it will suffice for the next two or three years, he may, provided the Memorandum and Articles of Association give the Directors the power, allow the amount to be placed to a separate Account, and only charge a proportion against the Revenue Account for the ensuing years, leaving the balance on the credit side of the Balance Sheet.

Amount written off for Depreciation.

The Auditor should also recommend a proper amount to be written off for depreciation of plant, machinery, &c. This is usually a percentage on the cost, and small or large according as it has to be seldom or frequently replaced, the object being to charge the Revenue Account of the period with a proper sum for the use of the plant, and for the balance to represent its proportionate value as a going concern.

In many Companies it is the practice to add the sums periodically expended on the purchase of new machinery to the General Plant Account, and to write off a fixed percentage on the balance against each Revenue Account. To this plan the Auditor cannot raise any objection, provided he is satisfied the balance of the Account as it appears on the credit side of the Balance Sheet is fair and reasonable.

It is in the early years of a Company's existence the Auditor has the greatest difficulty in inducing Directors to charge against the Revenue Account an amount sufficient to provide for the depreciation of the period embraced by the Accounts.

A new enterprise usually requires time to show its usefulness, but, in anticipation of success, certain items of expenditure are as heavy in its early years as they are when the business transacted is greatly increased. The rent of premises, cost of maintaining plant and machinery, and the salaries and wages of an efficient staff, frequently press so heavily on the revenue of a new business that the only way of paying a dividend is to defer charging the Revenue Account with depreciation, and this an Auditor should not allow to be done without the knowledge of the shareholders.

The Goodwill of a trading Company is fixed capital, and in ascertaining profits it is not necessary to make good any depreciation in respect of it.—*Wilmer v. McNamara & Co., Ltd.* [1895] 2 Ch. 245.

Case of *Lee v. The Neuchatel Asphalte Company.*

The case of *Lee v. Neuchatel Asphalte Company* (41 Ch. D. 1), in which the doctrine was laid down that there is nothing in the Companies Acts, 1862, and subsequent Acts to prohibit a Company formed to work a wasting property, as, *e.g.*, a mine or a patent, from distributing, as dividend, the excess of the proceeds of working above the expenses of working, nor to impose on the Company any obligation to set apart a sinking fund to meet the depreciation in the value of the wasting property, has been misunderstood. Whether a Company formed to work a wasting asset can so treat its expenditure in its Accounts depends entirely on its Memorandum and Articles of Association. In those Companies where it is permitted, if the expenses of working exceed the receipts, the Accounts must not be made out so as to show an apparent profit, and so enable the Company to pay a dividend out of capital, but the division of the profits without providing a sinking fund is not such a payment of dividends out of capital

as is forbidden by law. In the course of his judgment, Stirling, J., made the following remarks: "It may be that in some future year the Company will have to set apart a substantial sum to represent depreciation in the value of the concession; but so long as the capital remains intact, and the current receipts exceed the current expenditure, both according to the general law and under the provisions of these particular Articles of Association, it rests entirely with the shareholders to decide whether the excess shall be divided among them or set apart as a reserve fund for replacing wasting assets, and the Court has no power to interfere with their decision, however foolish or imprudent it may seem to be."

Lord Justice Lindley's Judgment.

In the Court of Appeal, Lindley, L.J., remarked: "Now we come to consider how the Companies Act is to be applied to the case of a wasting property. If a Company is formed to acquire and work a property of a wasting nature, for example, a mine, a quarry, or a patent, the capital expended in acquiring the property may be regarded as sunk and gone, and if the Company retains assets sufficient to pay its debts, it appears to me that there is nothing whatever in the Act to prevent any excess of money obtained by working the property over the cost of working it from being divided amongst the shareholders, and this, in my opinion, is true, although some portion of the property itself is sold, and in some sense the capital is thereby diminished. If it is said that such a course involves payment of dividend out of capital, the answer is that the Act nowhere forbids such a payment as is here supposed."

Lord Justice Lopes' Judgment.

Lopes, L.J., also remarked: "It is said by the Appellant that a Company is not at liberty to pay a dividend unless they can show that their available property at the time of declaring the dividend is equivalent to their nominal or share capital. In my opinion such a contention is untenable. Where nominal or share capital is diminished in value, not by means of any improper dealing with it by the Company, but by reason of causes over which the

Company has no control, or by reason of its inherent nature, that diminution need not, in my opinion, be made good out of revenue. In such a case a dividend may be paid out of current annual profits, out of profits arising from the excess of ordinary receipts over expenses properly chargeable to the Revenue Account, provided there is nothing in the Articles of Association prohibiting such an application, and provided it is done honestly. It appears to me that if a contrary view were adopted it might be successfully contended that where, owing to extraneous circumstances, the capital is increased in value, that increase might be dealt with as revenue or profits, and go to increase the dividend. This is contrary to all practice, and I think contrary to principle. The capital and the revenue accounts appear to me to be distinct and separate accounts, and for the purpose of determining profits, accretions to and diminutions of the capital are to be disregarded." . . . "The capital in an undertaking like this is in its inherent nature wasting. The scheme of this undertaking is that there should be a gradual exhaustion of material; the wasting is the business of the Company, and without such gradual exhaustion there would be no revenue."

This decision of the Court of Appeal relieves the Auditor of responsibility, but it is certainly his duty to point out to the Directors that to declare dividends without creating a reserve for wasting property is a suicidal policy, and contrary to the practice of soundly managed public Companies.

Loss on Realisation of Securities.

Should a loss be sustained by the Company on the realisation of any of its capital invested on mortgage or any class of securities, the amount should be distinctly stated in the Revenue Account, and not be concealed by being included in any item of expenditure.

Debts irrecoverable.

When there are many Ledger Accounts there is almost certain to be a loss on the realisation of the outstanding balances due to the Company, as it is practically impossible for any extensive business to be carried on without bad debts being occasionally incurred.

An Auditor cannot, of course, be expected to be acquainted with, or even to ascertain, the financial position of those he may find by the books are indebted to the Company, but it is clearly part of his duty to take all reasonable means to prevent the Company taking credit for sums appearing by the books to be due to it, the whole of which it is certain will not be eventually received.

He should, therefore, have prepared for him a list of all those who were indebted to the Company at the date on which the books were closed, and this he should go through carefully with the official who, in his opinion, is the one most likely to be acquainted with the financial position of these debtors.

It is a very convenient plan to have a list prepared for him, classifying the debtors under three headings, namely, good, doubtful, and bad. The amount due from the first may, of course, be fully taken credit for in the Balance Sheet, and with regard to the doubtful debts, only a percentage, such as 60, 75, or 90 per cent., of the total amount should be assumed as likely to be eventually received, while the balance of 40, 25, or 10 per cent., together with the total of the debts returned as bad, should be charged against the Revenue Account as "Debts Irrecoverable," or under some similar heading. "No Balance Sheet can be made out for any useful purpose without distinguishing good, bad, and doubtful debts." —*In re Frank Mills Mining Co.*, 23 Ch. D. 57.

When a Company employs agents, the balances due from them at the end of the period under audit may be treated in the same manner.

In many Companies it is usual to write off a small percentage, such as one or one and a-half per cent. on the sales, and charge that amount against the Revenue Account as a provision for losses estimated to arise on realisation. When, however, this plan is adopted, the Auditor must be careful that the rate per cent. is sufficiently high. Even then it is not so satisfactory a way of determining the amount which ought to be written off as an allowance

for bad debts as in going through the list of debtors seriatim, and treating the balances in the manner recommended above.

General Expenses.

Items of expenditure which are not of sufficient importance to require separate headings in the Revenue Account are usually included in one general heading as "General Expenses." The Auditor, however, should for his own information see an analysis of this expenditure, as it may possibly contain some unauthorised payments, which he should call attention to in his Report to the Shareholders.

Proxies.

Payments for printing and sending out proxy forms containing the names of certain of the Directors as proxies for a General Meeting of Shareholders, and for stamping and paying the return postage thereon, has been held to be a misapplication of the funds of the Company, it being obvious that a shareholder who votes by proxy does so for his own convenience solely, and "Directors have no more right to expend the funds of the Company to promote the convenience in this respect of a shareholder who may be too indolent to attend the meeting than they would in providing him with post-horses or a special train to enable him to attend."—*Studdert v. Grosvenor*, 33 Ch. D. 528.

Brokerage.

The payment of brokerage or commission to a stock-broker for placing a Company's shares was in 1889 held to be an improper application of its capital, and not authorised even by a power given by the Memorandum of Association, to do whatever may be "conducive to" the specified objects of the Company.—*In re Faure Electric Accumulator Co.*, 40 Ch. D. 141.

This case, however, has been interpreted by the Court of Appeal to have referred to "payments of commission to brokers . . . . not *bonâ fide* payments for work and labour done—that they were not payments in the ordinary way of business, but rather in the nature of bribes." . . . "In any case, when it is made out that the services of the broker are reasonably necessary, that the brokers are

properly employed in the issue of the capital of the Company, and that the payment of a commission of so much per share is a fair and just payment for services rendered, there is no ground, either of reason, of justice, or of principle, why the payment shall not be held to be *intra vires* and unimpeachable."—*Metropolitan Coal Consumers' Association v. Scrimgeour* [1895] 2 Q.B., 609.

Section 8, Subsection 3, of the Companies Act, 1900, gives a statutory sanction to this decision of the Court of Appeal.

The Companies Act, 1900, has made it lawful for a Company to pay commission to any person in consideration of his subscribing, or agreeing to subscribe, whether absolutely or conditionally, for any of its shares, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for shares, if the payment of the commission and the amount or rate per cent. of the commission paid, or agreed to be paid, are respectively authorised by the Articles of Association and disclosed in the Prospectus, and the commission paid or agreed to be paid does not exceed the amount or rate authorised.

Should an Auditor find a payment or charge of this nature in the Revenue Account, he must, of course, ascertain that it is authorised as above indicated, and subject to this a Company is not allowed to apply any of its shares or capital money in payment of any commission, discount, or allowance to any person for the above purpose, whether the shares or money are applied by being added to the purchase money of any property acquired by the Company or to the contract price of any work to be executed for the Company, or the money be paid out of the nominal purchase money or contract price or otherwise.

Amount written off Preliminary Expenses.

The expenses incurred in the formation of a Company are usually brought together into a Suspense Account called "Preliminary Expenses," and as it would be unfair towards the business of the first year to charge the whole amount against its Revenue Account, it is the

custom to write off a proportion, such as one-fifth, against the Revenue Account of the first five years, at the end of which time this Suspense Account would thus be extinguished.

This method of dealing with the Preliminary Expenses Account is frequently provided for in the special Act or the Memorandum and Articles of Association, but even when this has not been done it may be permitted by the Auditor, provided, of course, the shareholders are made aware of the fact, either on the face of the Accounts, or by means of the Auditor's Report. The practice of spreading expenditure of a special or exceptional nature over a term of years is recognised as admissible among business men, and may be so recognised in the Accounts of Companies. "These Companies are commercial partnerships, and are, in the absence of express provisions, statutory or otherwise, subject to the same considerations." —*Griffith v. Paget*, 6 Ch. D. 515.

The only case dealing directly with this subject is one tried in 1864, in which an action was brought by a shareholder against two Directors, the Solicitor, and one of the Auditors of a Company registered under the Joint Stock Companies Act, 1856, Section 71 of which recognised the distribution of certain items of expenditure over several years, for false representations in a Balance Sheet, one of such representations being that only a portion of the "Preliminary Expenses" was brought into the year's account.

The second Auditor had resigned after the declaration of a dividend which, in his opinion, had not been earned, and he was not made a defendant. In his opinion there had been a loss apart from the question of how the preliminary expenses ought to have been treated in the account, and he had concurred with the other Auditor in addressing a report to the Directors suggesting that the meeting should fix upon such sum as it might consider fairly chargeable to the Preliminary Expenses Account, and that it be written from off that account at the rate of from ten to twenty per cent. per annum.

While he was being examined as to the manner in which the preliminary expenses had been dealt with in the Directors' Balance Sheet, which spread them over several years, Martin B. observed that he remembered the subject had been a good deal discussed as to Railway Companies some years previous, and there was a great objection to the course taken, "but now it appeared that there was an agreement among Auditors to spread such expenses over a number of years; that, indeed, was objected to, and it was the reason why the North Western Railway Company were able to declare large dividends soon after they opened their line. But no doubt it was now done, and it would never do to impute it to the Directors as a fraud that they had done what was usually done by Auditors."

After these remarks by the Judge, Counsel then abandoned this part of his contention.—*Bale v. Cleland*, IV. F. & F. 117.

The number of years over which the "Preliminary Expenses" Account may extend should not exceed five or six, except in very special cases, for which ten should be the extreme limit permitted, and the Auditor should not pass without comment any amount expended on "Preliminary Expenses" in excess of the amount stated in the Prospectus as being either the exact amount or the estimated amount, except that it is not necessary to disclose either of these amounts in a Prospectus published more than one year after the date at which the Company became entitled to commence business.

Interest paid to Shareholders.

It is the custom with many Companies to place the "Interest paid to the Shareholders" in the Revenue Account, among the expenditure. This is very incorrect, and should be objected to by the Auditor. The Revenue Account should show clearly the actual or net profit out of which a dividend can be paid, or, if no profit has been earned, the fact should be distinctly shown.

If, notwithstanding that a loss has been sustained during the period to which the Accounts refer, a dividend be paid to the shareholders, the Revenue

Account should show at a glance that it is paid either out of past profits or that its payment creates or adds to a previous deficiency, in other words, is paid out of the shareholders' capital.

In order that these facts may be properly set forth, the Revenue Account should be divided into two sections, the first (which may be sub-divided as previously suggested) consisting exclusively of the actual income and expenditure of the period under audit, the balance of which, showing the net profit earned or the actual loss sustained, should be carried down to the second part of the Revenue Account.

Revenue Account should be divided into two sections.

In this second part should also be set forth the balance brought forward from the previous Revenue Account (if any), representing the undivided profits or the deficiency at that date, also the amount of the interest or dividend proposed to be paid to the shareholders. Any interim dividend paid to the shareholders since the last Accounts were made up, and any bonus proposed to be distributed among the shareholders, should be entered in the second part of the Revenue Account, which should also include any additions made to the Reserve or Reserve Fund (if any), during the period.

This supplementary statement, therefore, shows clearly out of what funds the proposed dividend would have to be paid, whether out of the profits of the period, or partly or wholly out of the past profits, or partly or wholly out of the capital of the Company.

The holders of preference shares, the dividends on which are "dependent upon the profits of the particular year only," are entitled to a dividend out of the profits of any year after setting aside a proportionate amount for depreciation, maintenance, repairs, and renewals for that year only, and are not to be deprived of that dividend in order to make good any sums which in previous years should have been set aside by the Company for maintenance, but which had been

Dividends on Preference Shares.

improperly applied by them in paying dividends.—*Dent v. London Tramways Company*, 16 Ch. D. 344.

When the Memorandum of Association of a Company incorporated under the Companies Act, 1862, stated that a portion of the shares were to have a right of receiving a dividend by preference to the other shares, resolutions passed by the Company altering the priorities and payments of the net revenue as between the preference and ordinary shareholders were held to be not valid, and that no resolution of the Company, special or otherwise, could alter the contract made between the Company and all the shareholders, and that the revenue of the Company available for dividend must be applied in the manner originally prescribed by the Memorandum of Association.—*Ashbury v. Watson*, 28 Ch. D. 56, and 30 Ch. D. 376.

Income side of the Revenue Account.

The income side of the Revenue or Profit and Loss Account contains the amount of the revenue derived from the business for carrying on which the Company was established, together with that of any additional and incidental income.

Sales.

In trading Companies the principal source of revenue consists of that derived from sales, which may be classed under three heads :—

(1.) Sales for cash.

(2.) Sales on credit, paid for before the closing of the books.

(3.) Sales on credit, unpaid at the date of closing the books.

The two first items do not require any comment, but the third demands the most careful consideration of the Auditor. In the first place he must be satisfied that the sales taken credit for are *bonâ fide* sales, and that the goods are not subject to return at the option of the purchaser ; it is also in respect of goods sold and not paid for that bad debts arise. The best way of ascertaining how much should be charged against the Revenue Account, to provide for the probable failure of some of the debtors of

the Company to meet their engagements, has already been shown, and it is only necessary to add that the sum decided upon should always be entered on the debit side of the Revenue Account, and never be deducted from the amount of the sales. In other words, the amounts debited to customers for goods sold to them must be set forth in full in one sum on the income side of the Revenue Account, while any bad debts or losses expected to arise on the realisation of the balances must be distinctly stated on the other side of the Account.

Returned Goods.

The value of any goods returned by purchasers should be deducted from the sales, but this is the only exception ; the total amount, therefore, of the sales, after deducting the value of the goods returned, should be brought into the income side of the Revenue Account, while all charges and expenses connected with influencing such sales should be set forth on the debit side. In no other way can the shareholders see the total amount of the business done, and the expenses incurred in transacting it.

Premiums.

The principal source of income of all Companies transacting insurance business, whether life, fire, marine, accident, guarantee, burglary, &c., is the premiums they receive for undertaking the risk of the insurance.

In auditing the Revenue Account of an Insurance Company the Auditor must be careful that only those premiums are taken credit for which fall due in the period under audit. Premiums paid in advance falling due after the date of closing the books should not be taken credit for, but they should be brought into the Balance Sheet among the liabilities, and would form part of the income in the following Revenue Account.

It therefore follows that Premiums received during the period under audit, but which fell due previously, should not be included, as they, of course, belong to the preceding period. In the event, however, of their not having then been taken credit for, they should be added

to the amount of funds at the beginning of the year, with a note explaining their previous omission.

The Auditor must ascertain that Note 2 of the first Schedule of the Life Assurance Companies Act, 1870, has been attended to.

This note prescribes that the amounts paid and received in respect of re-assurances should be deducted from the premiums, and not charged against the Revenue Account on the other side.

When part of a premium is allowed to remain on credit the whole premium should be included among the income, and the part not paid should be included among the assets, under the heading "Loans on Company's Policies."

Shares in other Companies.

Under the heading of "Shares in other Companies," or some such similar heading, is frequently included, in the case of Financial and Trust Companies, the amount they wish to take credit for in respect of shares of other Companies received by them, either as promoters or underwriters, or perhaps as bonuses in consideration of their having subscribed for shares in new undertakings.

The amount taken credit for is sometimes the total nominal amount of the shares, or this amount subject to an allowance for the possible loss on realisation. Whatever the amount may be, it requires thorough investigation by the Auditor for him to arrive as a matter of principle at the correct sum which he can pass without making any special reference to it in his Certificate or Report. In nearly all these cases the Articles of Association allow of a Company purchasing property for speculative purposes, and reselling it to other Companies formed for the purpose of acquiring it, the vendor Company receiving either cash or shares, or partly cash and partly shares.

If the Articles do not sanction this, then, of course, the whole transaction is *ultra vires*, and must, of course, be reported upon by the Auditor ; but, assuming the requisite authority is in the Articles, then the amount to be taken credit for requires his attention.

In the case of cash there is very little doubt. The

whole of the cash received after allowing for the expenses may be taken to credit of Revenue Account without any other deduction, but in the case of shares several matters have to be considered. A sale of land for shares is, in law, not a sale at all, but an exchange, and the Company has only as the result one class of property, namely shares, in lieu of another class of property, namely, land ; but although the question has never come before the Courts, it seems to be assumed that shares earned in this way can for certain purposes be treated as profits. It is, however, distinctly dangerous for any amount taken credit for in a Revenue Account in respect of shares to be treated as a profit available for dividend, and it is now the usual practice, in the case of a Company whose revenue is derived by means of receiving fully-paid shares to be ultimately converted into cash, for the Revenue Account to be prepared in two columns, one showing the profit in shares, and the other the profit or loss, as the case may be, in cash, and not to treat as divisible profit anything taken to credit in the share column until the same has been realised.

Interest on Investments.

The interest and dividends received on the investments of a Company, so far as they relate to the period since the date on which the books were last closed, or, if the Company be a new one, since its incorporation, must be taken credit for in the Revenue Account, and, in addition, the interest accrued to the date of closing the books.

For example, supposing the books are made up at the 31st December, and one of the Company's investments is Bank Stock, the dividends on which are paid on the 5th April and 5th October in each year, the proportion of interest for the period between the 5th October and the 31st December should be taken credit for, of course supposing the investment to have been made prior to the 6th October, otherwise the proportion only can be taken credit for.

When the shares of another Company are held as an investment, the accrued interest can only be estimated, as

the rate of dividend which will be declared cannot, of course, be known. The Auditor must, however, not allow too sanguine an estimate to be assumed.

The interest derived from investments in debentures of a Company, or from mortgages, being fixed, the calculations can be easily made.

Transfer Fees.

Another source of revenue in nearly all Companies is the fees received for the registration of the transfer of shares, usually called "Transfer Fees." In those Companies whose shares are not quoted in the official list of the Stock Exchange the income received from this source is generally trifling, but in large Companies, in whose shares there is constant speculation, the transfer fees often form an appreciable item of revenue.

Traffic and other Receipts.

The revenues of Railway, Tramway, Omnibus, and similar Companies consist mainly of receipts for the conveyance of passengers and goods. Banks and Discount Companies derive theirs principally from discounting mercantile bills. Gas and Waterworks Companies from the rates they charge for the consumption of their respective supplies. These demand no special directions for the guidance of the Auditor. He must, of course, be careful to ascertain that no amounts are taken credit for which have not been properly earned, and that when it is necessary to make an estimate it is done on a reasonable and moderate basis.

Exchange.

When currency is remitted home, or when floating assets are kept abroad, there will either be a profit or loss on closing the books. For remittances home, the amount of currency remitted being known, any difference between the rate at which the currency stood in the books and the rate at which it was remitted home would have to be carried to the Exchange Account and eventually to the Profit and Loss Account. Floating assets would have to be converted from currency to sterling at the rate of the date of the Balance Sheet, and the difference, representing a gain or a loss, would be brought into the Profit and Loss Account.

When a Company carrying on a successful business requires additional capital for the purpose of extending its transactions, it is a very general practice to issue the new shares at a premium. Premiums on Shares.

There are many reasons for this, one being that when the market value of the shares of a Company are above par it would depreciate this value were the new shares issued below it. Another reason is, that it would not be fair to the shareholders, who have borne the risk of establishing and bringing the Company to its flourishing condition, for others to come in and share their reward without giving them some equivalent for the privilege. Should not be brought into Revenue Account.

It is not desirable for these premiums to be taken credit for in the Revenue Account, as they should be invested and placed to the credit of the "Reserve Fund," or, if there be none, should form the commencement of one. The amount may, however, with great propriety, be applied towards the liquidation of an unrealisable Account on the credit side of the Balance Sheet, such as that of "Preliminary Expenses," but should the Directors insist on treating these premiums as Revenue and available for dividend purposes, the Auditor has no authority for declining to pass Accounts with these receipts thus treated, unless it is forbidden by the Articles of Association.

Early in this chapter, it was pointed out that the debit side of the Revenue or Profit and Loss Account of a trading Company commenced with the stock in hand at the beginning of the period, and consequently the credit side includes the stock left in the possession of the Company at the date on which the books are closed, that is, the unsold portion of the purchases of the period, and perhaps some of the stock in hand at the commencement of the period. Stock in hand at end of period.

The amount to be taken credit for in respect of stock is of supreme importance in many Companies, as it is no exaggeration to state that it is frequently possible to double or treble the apparent profit, where the Directors and

Manager together, or even the latter alone without the knowledge of the former, succeed in deceiving the Auditor, and consequently the Shareholders.

The Auditor cannot, of course, be held responsible for the value assigned to this stock, as it is manifestly impossible that he should, even if he were qualified, be able to take or to check the actual measurement or counting of stocks, whether of raw materials or manufactured articles, either by number, weight, or otherwise, but he must use reasonable discretion, when the valuation of the stock is handed to him, in satisfying himself that it has been arrived at in a systematic manner.

Method of checking value of Stock.

As regards prices, it is desirable to verify those at which raw material is taken credit for by an examination of some of the invoices ; and also, where the Auditor is in doubt as to these values, to consult some prices current, in order to see how far they correspond with the value on the sheets shown to him. As regards the valuation of the manufactured and partially manufactured stock, it is possible in some cases to test the calculations by which the cost of production per unit is made out by the manufacturer ; while in other cases, where this is from the nature of the circumstances impossible, an approximate cost may be ascertained, by the deduction of a percentage from the selling prices, bearing the same ratio thereto that the gross profit in previous years has borne to the total production or turnover of the business. In some cases it is desirable to ascertain whether much of the stock has been on hand for a long period ; as it may lead the Auditor to form the opinion that the price taken credit for should be reduced, either owing to depreciation in the goods themselves, or to the inability of the manufacturer to sell at former prices.

Some businesses admit of a mechanical method of approximately checking the quantities of the total stock, which may usefully be employed by an Auditor. For example, in the case of a Company occupied in manufacturing bags for grain, &c., or other products from raw jute, the total consumption of raw material can be

ascertained by adding to the raw stock at the commencement of the year the cargoes of jute delivered, and deducting therefrom the unmanufactured jute lying in the warehouse at the end of the year. This will show how many tons have been consumed, and give the product in a certain number of bags or yards of the manufactured article. This result should be accounted for (within a small limit of deviation) by the total sales in quantities, added to the stock of the manufactured goods at the end of the period, after deducting the corresponding stock at the commencement of the period. This method is applicable to very many other varieties of manufactures, where but one or few varieties of raw material are used ; but it cannot be applied successfully to those in which many materials are used in completing the finished article.

Auditor should require Certificate of value of Stock.

It is clearly, however, not incumbent on an Auditor to check the valuation of the stock handed to him by the officials, in this or any similar searching manner ; he should, however, require the valuation of the stock to be certified, both as to measurement and weight, as to the value put opposite each article, and as to the working out of the necessary calculations and the additions by the officials who have respectively performed these duties.

As already stated, the Accounts of a Company are prepared by the Directors, who have funds at their disposal to employ Valuers, or any other experts, to assist them in arriving at the value of stock-in-trade before handing the Accounts to the Auditors for their approval, while an Auditor has no power to employ a Valuer or have any assistance whatever at the expense of the Company in checking the value put upon the stock by the Directors.

" It is no part of an Auditor's duty to take stock. No one contends that it is. He must rely on other people for details of the stock-in-trade on hand. In the case of a cotton mill he must rely on some skilled person for the materials necessary to enable him to enter the stock-in-trade at its proper value in the Balance Sheet."—*In*

re Kingston Cotton Mill Company (No. 2) [1896] 2 Ch. 279.

In different trades the mode of procedure in taking the stock naturally varies ; but the object of stock-taking is of course to ascertain, by number, quantity, measurement, or weight, the entire stock-in-trade, that is, the unsold portion of goods, either manufactured or purchased with the object of being resold in the ordinary course of business.

Writing Up.

When the Directors take credit in the Revenue Account for an increase in the value of any property over the amount this same property was taken credit for in the preceding Balance Sheet, or what is technically known as "writing-up" an Asset, the Auditor, however much he may disapprove of the step, has no legal power to object, provided he is satisfied it is done in a *bonâ fide* manner. It is also more correct to take credit for doubtful revenue, and to add a corresponding amount to reserve on the debit side, than to omit the doubtful item, when there appears to be any reasonable chance of the whole, or even part, being realised.

When the profits are not sufficiently large to admit of a dividend being paid out of them, and the Directors in distributing one have recourse to the Reserve or "Reserve Fund," the amount taken therefrom should not be included among the income shown in the Revenue Account.

As previously remarked, this Statement should show the actual profit or loss of the period, and it would not do so if amounts of this description were improperly added to the income instead of being brought into the supplementary Statement previously explained and recommended.

Balance of the Revenue Account.

The final balance of the Revenue Account, representing the amount of undivided profits, or the deficiency resulting from either mismanagement or misfortune, is transferred to the Balance Sheet, where it remains, showing, in conjunction with the other entries therein, the financial position of the Company, so far as the books are concerned.

CHAPTER X.

THE BALANCE SHEET—DEBIT SIDE.

Explanation of the Balance Sheet—Not necessarily a Statement of Assets and Liabilities—A Full and Fair Balance Sheet—Liabilities—Capital—Shares Issued at a Discount—Shares Issued as Fully Paid—Audit of Capital Account—Debentures—Mortgages—Liability on Bills Receivable Discounted—Sundry Creditors—Interest Outstanding—Amounts due on Current and Deposit Accounts—Claims Admitted but not Paid—Reserve—Reserve Fund—Sinking Fund—Balance of Revenue Account (Surplus).

Definition of Balance Sheet.

The Balance Sheet is the most important Statement which can be laid either before the Shareholders of a Company or before those interested in any financial venture, whether speculative or non-speculative, as it shows the financial position of the Company, partners, or individuals, as the case may be, according to the Books of Account. It must be clearly understood that a Balance Sheet is not necessarily, what so many believe—or to suit their purposes pretend to believe—a Statement of Liabilities and Assets, using the latter word in the sense of its representing the saleable or market value of each item. A Balance Sheet is simply what its name implies, a sheet or collection of balances, and is really a Statement in an abstract form of the debtor balances and the creditor balances of the Ledger or Ledgers, after the elimination of such balances as have been transferred to the Revenue or Profit and Loss Account.

Not a Statement of Assets and Liabilities.

The erroneous idea that a Balance Sheet is necessarily a Statement of Liabilities and Assets of course arose from the fact that, as a matter of book-keeping, the credit balances of the Ledger which are transferred to the debit side of the Balance Sheet must necessarily include all the liabilities, while in the same manner the debit balances, being transferred to the credit side of the Balance Sheet, must

necessarily include the assets. The fallacy, however, of the popular title is of course seen when attention is called to the fact that the credit side of the Balance Sheet must also by the same process include all expenditure unrepresented by an asset or any property of value, also all special losses, or the general loss or deficiency to date brought forward from Profit and Loss Account; while, on the other hand, the debit side necessarily includes the Capital of the Company or partners, also any reserve, and any surplus brought from Profit and Loss Account.

"Directors may honestly and properly prepare a Balance Sheet, showing or implying a loss of capital, and at the same time may honestly and properly prepare a Loss and Profit Account, showing a balance available for dividend."—*In re Barrow Hæmatite Steel Co.* [1900] 2 Ch. 857.

Auditor's Duty.

Having stated these facts it must not be understood that the Auditor's duty is confined to ascertaining that the items on both sides of a Balance Sheet simply agree with the Ledger Accounts, as in those cases where the balances on the credit side of the Balance Sheet represent what are known as assets, or property, it is now generally admitted to be his duty to inquire into what may be inserted in this Statement as representing the value of such assets or property, while, on the other hand, he has to use reasonable care to satisfy himself that any liabilities not brought into the Books of Account are included in the debit side.

An Auditor has frequently to certify that a Balance Sheet is "full and fair." It is difficult to define what a "full" Balance Sheet means, as how can anything which is necessarily an abstract be strictly speaking described as full? The following definition by the Court of Appeal may, however, be accepted as representing what Auditors have always considered the proper interpretation:—

A full and fair Balance Sheet.

"A full and fair Balance Sheet must be such a Balance Sheet as to convey a truthful statement as to the Company's position. It must not conceal any known

cause of weakness in the financial position, or suggest anything which cannot be supported as fairly correct in a business point of view."—*In re London and General Bank* (*No.* 2) [1895] 2 Ch. 692.

In finally settling the Balance Sheet of a Company for submission to the Auditor, it must not be overlooked that, while it would be very improper for the Directors to intentionally deceive their co-partners in any particular, yet in many instances it would be very unfair to themselves and to the shareholders, as well as very impolitic, to either overstate the liabilities or to under-estimate the assets.

This applies to Companies whose business depends on their periodically showing to their constituents and the public their sound and unquestionable financial position, for while, on the one hand, nothing could be more reprehensible than for the Directors of a Bank to deceive their shareholders and the customers, by stating its securities at a value they know they do not possess, yet they would naturally, as competitors for public patronage, desire to set forth the assets at their full market value, and to this the Auditor cannot raise any objection. As a matter of prudence, however, he might suggest the cost price being inserted in the Balance Sheet, supposing the securities have not depreciated in value, and there being stated, in a foot-note, the actual market value at the date on which the Balance Sheet is made out.

Liabilities.

The liabilities as shown in a Company's Balance Sheet may be classed under two heads :

(1.) Liabilities to the shareholders.

(2.) Liabilities to the public.

Capital.

The former consists of the capital, which may be represented either by stock or shares. If the latter, the shares may be either all of one equal value, or some may be of larger amount than others. Again, the shares may either entitle their holders to receive an equal share of the profits, or some of them may confer the right to a preferential dividend, either at the same rate of interest, or

perhaps at a higher or a lower rate than the "ordinary" shares, the former usually being known by that name, the latter being usually styled "preference" shares.

Preference Shares.

There are two classes of "preference" shares, one which entitles their holders to a preferential dividend out of the profits of the year only, the other which claims the preferential dividend out of the profits of preceding or future years, in the event of the profits of any one year being not sufficient to provide for the stipulated interest.

Unless, however, it is expressly provided for in the private Act or Articles of Association, preference shareholders are only entitled to the preferential dividend out of the profits of each year, and, if there are not profits available for the payment of the full amount, no part of the deficiency can be made good out of the profits of any subsequent year, or out of any other funds of the Company.

Details of the Capital should be set out.

The details, showing the particulars of the capital, should be clearly stated, and when it is divided into more than one class of shares this should be shown, also the number of shares authorised to be issued either by the special Act of Parliament or the Memorandum of Association, the number actually issued, the total nominal value of the shares issued, and the amount paid up. Any sums paid in advance of calls should also be stated.

The manner in which the amount representing the Shareholders' Capital has been arrived at requires investigation. A subscriber for shares practically enters into a contract to take the shares and pay a proper consideration for them, either in money or money's worth. The Capital paid in money will of course be standing at the credit of the Ledger Account posted from the Cash Book, but it must not be taken as necessarily correct by the Auditor and passed without inquiry. Payment on shares made by a fictitious proceeding under which a Company never really receives the amount payable on the shares at all is invalid.—*Aspinall's Case*,

re The Eupion Fuel and Gas Co., 36 L.T. 362; *Hay's Case*, 10 Ch. D. 593.

The Directors of a Company limited by shares may receive payment from a shareholder of any amounts remaining unpaid on his shares, and may pay out of capital interest on sums so paid up in advance of calls, either under Table A (if applicable), or under provisions to the same effect in the Articles of Association, provided they do so in good faith and in the honest exercise of the discretion confided to Directors.—*Lock v. Queensland Investment and Land Mortgage Co., Ltd.* [1896] A.C. 461.

Shares issued at a Discount.

In a limited Company, notwithstanding the Articles of Association empower the Directors to issue shares at a discount, it is impossible for them to do so as to render the holders thereof not liable to pay the nominal amount thereof in full.—*In re Railway Time Tables Publishing Co., Ex parte Welton* [1895] 1 Ch. 255.

A Company governed by the Companies Clauses Consolidation Act, 1845, and the Acts amending it, may issue fully paid-up original stock at a discount, and for payment either in cash, or for land or labour, or other consideration, subject to the liability of the Directors for issuing the stock below its value without necessity. Such Companies may also issue debentures or debenture stock at a discount, if authorised to borrow money or raise money by mortgages or debentures.—*Webb v. Shropshire Railways Co.* [1893] 3 Ch. 307.

A Company governed by the same Acts may issue fully paid-up original shares at a sum less than their nominal amount in the same manner as new shares can under the authority of those Acts be issued.—*Statham v. Brighton Marine Palace and Pier Co.* [1899] 1 Ch. 199.

Issue of Fully Paid-up Shares.

A Company limited by shares has no power to issue shares as fully paid-up, as a free gift, or bonus, to its shareholders, although a contract to do so has been made without any fraudulent intent, and registered under Section

25 of the Companies Act, 1867.—*In re Eddystone Marine Insurance Co.* [1893] 3 Ch. D. 9.

It is therefore evident that where a Balance Sheet contains the entry of Capital issued either as fully paid up, or represented in any way except by cash received by the Company, the Auditor should satisfy himself that to the best of his knowledge and belief the issue of such Capital has been both proper and legal.

In auditing the first Accounts of a re-constructed Company, the Auditor should satisfy himself that the Capital of the new Company has been issued in accordance with the Agreements entered into relating to the re-construction. If the issue has been in accordance with an Order of Court, an office copy of the Order should be produced to the Auditor.

Audit of Capital Account.

To thoroughly audit the Capital Account at the first audit of a Company, or at the audit after any subsequent issue of capital, the following course should be followed :—

1. Check the Forms of Application for shares and Letters of Allotment with the Bankers' Pass Book.
2. Check the Forms of Application and Letters of Allotment into the Application and Allotment Book.
3. Check the Application and Allotment Book into the Share Ledger.
4. Check the money paid according to the Application and Allotment Book into the Cash Book.
5. Repeat the same operation in respect of each Call.
6. Check the number of shares issued according to the Balance Sheet with the numbers stated to have been allotted at Board Meetings according to the Minute Book.

Debentures.

In addition to the stock or shares there is another class of Capital frequently made use of by Companies, technically known as "Debenture Capital." This, as its name implies, is borrowed capital, the repayment of which may be secured to the lenders by a mortgage deed either on part or on the whole of the property of the Company.

No satisfactory definition of a debenture has so far been given. Chitty, J., discussed the term very fully in *Edmonds v. Blaina Furnaces Co.*, 36 Ch. D. 215, and stated, "The term itself imports a debt, an acknowledgment of a debt, and speaking of the numerous and various forms of instruments which have been called debentures without anyone being able to say the term is incorrectly used, I find that, generally, if not always, the instrument imports an obligation or covenant to pay. This obligation or covenant is, in most cases at the present day, accompanied by some charge or security; so that there are debentures which are secured, and debentures which are not secured."

Mortgage debentures are debentures secured by a charge of some kind on the property of the Company, while ordinary debentures are merely certificates of indebtedness.

Railway Debentures.

Railway debentures made in the form given in Schedule C of the Companies Clauses Consolidation Act, 1845, are only secured on the tolls and earnings of the Undertaking, and not on the capital, the permanent way, the rolling stock, or any part of the railway itself.

Debenture-holders are, of course, creditors of the Company, but the amount due to them should be kept distinct from the sums due to ordinary creditors. In a few Companies they have the privilege of voting at meetings, also of having their own Auditor.

Debentures issued at a Discount.

Companies occasionally issue debentures at a discount. In such cases, as the liability is to pay back to the debenture-holders the nominal amount at some future date, however remote, the nominal amount of the debentures issued must be included on the debit side of the Balance Sheet, while the discount must be either charged against the Revenue Account of the period during which the debentures were issued, or, if permitted by the Memorandum and Articles of Association, be spread over a term of years, leaving the proportion not charged against Revenue on the credit side of the Balance Sheet.

Amount due to Mortgagees.

The amount of the liability to those who have advanced money to the Company, secured by a mortgage on some or the whole of its property, should be included among the liabilities under a separate heading, such as "Amount due to Mortgagees." The amount set out should be that of the sums actually advanced to the Company, together with any accrued or outstanding interest thereon, placed in a separate line. This interest, when secured by the Mortgage Deed, should not be included with amounts due to unsecured creditors.

Mortgage of Uncalled Capital.

There is nothing in the Companies Act, 1862, or the subsequent amending Acts, expressly or by necessary implication prohibiting a limited Company from mortgaging its unpaid capital, consequently, where power to mortgage future or unpaid-up capital is given by the Memorandum or Articles of Association, a mortgage of such is valid.—*In re Pyle Works*, 44 Ch. D. 534. This decision was approved by the Judicial Committee of the Privy Council on an appeal from the Supreme Court of New South Wales, the Companies Act being for this purpose identical with our Act of 1862, on the 6th March, 1895.—*Newton v. Debenture-holders, &c., of Anglo-Australian, &c., Company* [1895] A.C. 244.

Liability on Bills Receivable Discounted

When Bills of Exchange Receivable come into the possession of a Company from any of its debtors, they are either retained by the Company until they become due, or they are discounted and the proceeds made use of for business purposes.

In the latter case, should the acceptor of a bill become insolvent before it falls due, and it is not, in consequence, honoured on presentation, the discounter will look to the Company to refund him the proceeds.

The Auditor should, therefore, go carefully through the list of the Bills Receivable which have been discounted, and upon which the Company is liable, with the Manager or some other official, and endeavour by that means, or in any other way he may think advisable, to ascertain what sum will have ultimately to be provided for by

the Company. This amount should be carried out as a liability, from which there should first be deducted the estimated amount expected to be received from the acceptors.

In the event, however, of the Company becoming insolvent, it would not obtain possession of the bills, and therefore any amount received from the acceptors would be payable to the holder of the bills, and not to the Company.

Sundry Creditors.

Under "Sundry Creditors" or some similar heading should be included all the sums due to those creditors of the Company who are not debenture-holders and who do not hold security for the payment of the same. The amounts due to debenture-holders, whether they do or do not possess security, and to mortgagees of the Company's property, should not, consequently, be included under this heading.

It therefore follows that only the sums due to two classes of creditors can be here set out, namely, those on Bills of Exchange Payable, and those on open Accounts, and the amounts due to each class is usually stated.

Great care should be taken by the Auditor to ensure that all of the latter class are included. It is not, however, the omission of the amounts due to those creditors who supply the Company with goods, which are either sold again or manufactured into other goods for resale, that he has to guard against; they are almost invariably entered in the books as soon as they reach the Company's premises. The difficulty is to ensure that among the liabilities under the above heading are included all the sums due to creditors chargeable against the Revenue Account, and which should be included in the expenses. The Accounts representing these are frequently not sent in until some time after the books are closed, and are, in consequence, omitted.

Shareholders' Interest Outstanding.

When a dividend is declared on the share capital it is the usual practice for the Board to draw a cheque on the current Account for the full amount, and to place

it to the credit of a separate Account at the Bankers'. Interest warrants on the Bankers are then issued to the shareholders for the amount of their respective shares of the dividend, which, on being paid, are charged against this separate Account.

Owing, perhaps, to the absence of shareholders from the country, from carelessness, or from other causes, it almost invariably happens that some of these warrants are not presented for a considerable time, and occasionally never come in. In preparing the Balance Sheet the amount of these outstanding interest warrants should be placed on the debit side under "Outstanding Shareholders' Interest," or some similar heading, while the same amount, representing the balance of this separate account at the Bankers', should be added to the cash balance on the credit side of the Balance Sheet.

When a Company declares a dividend on its shares, a debt immediately becomes payable to each shareholder in respect of his dividend, for which he can sue at law, and the Statute of Limitations immediately begins to run. The declaration does not make the Company a Trustee of the dividend for the shareholder, and an entry of the liability in the Company's books—at any rate when no special part of its assets is set aside as representing the dividend and no notice of the entry is given to the shareholders—does not take the case out of the statute. It appears, however, to be uncertain whether, in the case of a Company registered under the Companies Act, 1862, the period of limitation is six or twenty years.—*In re Severn and Wye and Severn Bridge Railway Co.* [1896] 1 Ch. 559.

Outstanding interest should not be taken to credit of a Profit and Loss Account until the claim is statute-barred, and not even then unless the Directors have decided not to recognise the claim should it subsequently be made.

Debenture-holders' Interest Outstanding.

The same remark applies to interest unclaimed by Debenture-holders, and in the case of a Railway Company incorporated by a special Act, authorising it to issue

Debenture Stock, bearing interest, subject to Part III. (which includes Sections 22 and 27) of the Companies' Clauses Act, 1863, which issued Debenture Stock, for which it gave certificates under its common seal, and also a warrant for interest under the signature of its Secretary, it was held that, the liability being statutory, the period of limitation was twenty years.—*In re Cornwall Minerals Railway Co.* [1897] 2 Ch. 74.

Preference Dividend in Arrear.

When part of the capital of a Company consists of Preference Shares, and the dividends on these shares are cumulative and in arrear, the amount of the arrears should either be calculated and brought into the liabilities, or else a note should be made on the Balance Sheet itself. In the absence of any mention of this liability, the Auditor should qualify his Certificate so as to call the attention of the shareholders to the omission.

Amount due on Current and Deposit Accounts.

The principal item found among the liabilities of a Banking Company is usually the "Amount due on Current and Deposit Accounts." This is the sum of the credit balances of the Customers' Ledgers, and the Auditor can easily ascertain if the amount is or is not correct.

Claims Admitted but not Paid.

Under the heading "Claims Admitted but not Paid," which appears in the Balance Sheet of Insurance Companies, should be stated the amounts which have been charged against the Revenue Account for claims under policies, but not settled at the date of closing the books.

Auditors should require a sufficient sum to be set apart as a Reserve when nature of the business requires it.

The Auditor should ascertain that a sum has been charged against the Revenue Account, and appears on the debit side of the Balance Sheet, sufficient to provide for any claims likely to arise in respect of contracts entered into by the Company, and in existence at the date on which the books were closed.

For example, all Companies transacting insurance business should have a reserve of this nature, for the purpose of meeting claims which, from experience, it is certain will be made in respect of policies in force at the close of the period under audit.

This sum can, of course, only be an estimate, but it

should be calculated on the most reliable data that can be procured, such as the experience of the Office in the past, or, if the Company be a new one, that of Companies transacting insurance business of a similar nature.

For this purpose it may be assumed that the premiums are received, and the claims in respect thereof arise at equal intervals throughout the year, and, therefore, at the date on which the books are closed, half the risk will have run off the policies then in force.

Mode of ascertaining the Reserve for Insurance Companies.

The following calculation would then obtain the amount which ought to be charged against the Revenue Account for the year, and included in the Balance Sheet as the reserve :—

(1.) Ascertain from the experience of the Company, or of Companies transacting similar business, the rate per cent. the losses bear to the net premium income.

(2.) Ascertain the amount which bears the same ratio to the net premium income for the year under audit. Half of this amount is the reserve required.

Very few, if any, Insurance Companies calculate their reserve in this manner, and an Auditor would have no right to object to any other method by which the Directors may have arrived at the reserve, provided, in his opinion, it has been fixed on a sound basis.

For Companies, &c., whose Revenue is derived from Subscriptions.

If the revenue of a Company, Society, or Institution is derived from annual or other periodical subscriptions, these are invariably paid in advance, and the privileges acquired thereby are either available from one fixed date to another, or else from the date of the payment of the subscriptions, according to the regulations of the Company.

In this case the proper reserve to be charged against the Revenue Account, and included in the Balance Sheet, should, as a rule, consist of the proportions of the subscriptions applicable to the periods between the date on which the books are closed and those on which the subscriptions will expire.

For example, supposing an annual subscription of four guineas dates from the first of any month, and a subscriber

joins the Company on the 20th October, the Company, on closing its books at the 31st December, would take credit in its Revenue Account for the four guineas, but against this should be charged on the debit side the three guineas, being the portion of the subscription applicable to the period between the 1st January and the 30th September of the following year, while the same amount should be brought into the liabilities in the Balance Sheet as a "Reserve to provide for the Liabilities on current Subscriptions," or a similar heading.

The Auditor must, of course, use his discretion as to whether this precise method of calculating the reserve should be strictly adhered to in the early years of a Company's existence, but in every case the accurate amount should be ascertained as in the two examples just given, and should form the basis for arriving at the reserve, and, except in the case of a new Company, should always be adopted.

Difference between Reserve and ReserveFund.

Although the terms "Reserve" and "Reserve Fund" are frequently used in the Accounts of Companies as though they were synonymous terms, there is a distinct difference between them.

A "Reserve" is merely the surplus of the credit side of the Balance Sheet over its debit side, although perhaps the "Reserve" may be divided under two or three more headings, such as "Reserve" and "Balance of Profit and Loss Account carried forward."

A "Reserve" of this nature is either a provision against loss of capital, or a reserve for the equalisation of dividends, or a reserve as an extra inducement to those with whom the Company may do business to give credit.

A "Reserve Fund," however, is not merely a surplus shown on the debit side of a Balance Sheet, but must be represented by special investments, which may or may not be shown distinctly on the credit side of the Balance Sheet. If, therefore, the reserve is used in the general business of the Company, it is not a "Reserve Fund," although, perhaps, the term might be properly so used if

some stock, used in the ordinary course of the business, was specially set aside, and when made use of represented by cash set aside until re-invested in further stocks specially ear-marked.

In the absence of any directions as to the investments of a "Reserve Fund," they must be such as are authorised by the Trustee Act, 1893, the sections of which are given in Chapter IV. Occasionally the term "Reserve Fund" is used in the Accounts of Companies in place of "Reserve," or some other term, in consequence of carelessly-drawn Articles of Association, which leave the Directors no option but to use the term.

The term "Surplus" or "Rest" is a better term to use than "Reserve," as no one could then possibly pretend they were under the impression that such was specially invested.

In a case where the Articles of Assocation of a Company provided that the Directors might, in priority to any Dividend, set aside out of "profits" any sum as a "Reserve Fund" for certain specified purposes, or "any other contingencies or purposes of the Company," and might invest the same; that any interest derived from such investment should be dealt with as profits; and that, subject thereto, "the entire net profits of each year" should belong to the shareholders, the Directors year by year carried part of the profits to three Reserved Funds, to meet (*a*) depreciation of steamers, (*b*) insurance, and (*c*) canal improvements; and the remaining profits, after providing for the preferential dividend, were distributed among the ordinary shareholders. These Reserve Funds were not represented by any separate or specific investments, but were merely book-keeping entries, represented in the Company's Balance Sheets by property of various kinds.

The Company's undertaking was eventually sold by special Act of Parliament at a price which left a surplus in excess of the liabilities of the Company and the capital paid up on the ordinary and preference shares. The sale

was completed during the currency of a financial year. On the completion of the sale the Company passed resolutions for a voluntary winding up. It had never been found necessary to resort to any of the Reserve Funds while the Company was a going concern, and part of them had been in fact divided among the ordinary shareholders in the form of bonus ; and at the date of the sale three funds representing these Reserve Funds were still standing in the Company's books.

It was held by the Court of Appeal that all three Reserve Funds represented undrawn "profits" uncapitalised, and to be therefore treated as income, to which, subject to the preferential dividend for the broken financial year, the ordinary shareholders were exclusively entitled, and not as "capital" or "assets" distributable among both the ordinary and the preference shareholders ; also, that in taking the Accounts for the broken year, the value of the plant and book debts should be taken at the actual ascertained values as stated in the Stock Books, and not at the lower values at which the Company had, according to their regular custom and from motives of prudence, estimated them in a previous annual Balance Sheet on which a dividend had been declared; and that the difference between the two values represented undrawn profits, to which, subject to preferential dividend, the ordinary shareholders were exclusively entitled.—*In re Bridgewater Navigation Company* [1891] 2 Ch. 317.

Sinking Fund.

A "Sinking Fund" is an Account to which a certain amount is transferred from the Profit and Loss Account, or Revenue Account, by debiting one of the latter Accounts and crediting the "Sinking Fund" Account. The amount this Account represents should be invested outside the business, and allowed to accumulate at Compound Interest. A "Sinking Fund" differs from a "Reserve Fund" in that the investments representing it must never be applied to any purpose save that for which the Fund was created, while the investments of a Reserve Fund may be realised for the equalisation of dividends, replacing lost Capital,

or for any other purpose within the Memorandum and Articles of Association of a Company.

Balance of Revenue Account (Surplus).

The surplus brought from the Revenue or Profit and Loss Account, after allowing for the payment of any dividend or bonus to shareholders, is usually brought into the debit side of the Balance Sheet. It may, however, be applied towards the reduction of a credit balance in the Balance Sheet unrepresented by any Asset, or may be added to or form the commencement of a reserve.

Frequently the surplus is carried forward from one Revenue Account to the following one ; sometimes part only is carried forward and the remainder placed to the credit of the " Reserve."

To this there cannot be any objection. It is always undesirable to have recourse to the " Reserve Fund " for the purpose of paying a dividend or for any other use, and a balance carried from one Revenue Account to the next, or merely placed temporarily to "Reserve," often enables a dividend to be declared without disturbing the Reserve Fund, and, consequently, avoids giving alarm to the shareholders.

CHAPTER XI.

THE BALANCE SHEET—CREDIT SIDE.

Credit Side of Balance Sheet frequently improperly called Assets Side—Division under Four Headings—Government Securities—Shares and Debentures in Joint Stock Companies—Investments should stand in Names of the Trustees—Freehold and Leasehold Property—Mortgages—Loans—Debtors—Bills Receivable on hand—Agents' Balances—Company's own Shares—Interest on Investments due and accrued—Cash—Stock-in-Trade—Works in Progress—Office Furniture—Purchase of Business, &c.—Sinking Fund for same—Expenditure on Development of Mine—Purchases on Hiring Agreements—Preliminary Expenses—Spreading Expenditure over a term of years—Balance of Revenue Account (Deficiency)—Balance Sheet should be so explicit as to be understood by every Shareholder.

Credit Side not Assets Side.

It was explained in the previous Chapter that the debit side of the Balance Sheet was frequently erroneously called the Liabilities Side, and instances were given of items which appear on that side of the Account which are not really liabilities. Still stronger reasons exist for not calling the credit side of the Balance Sheet the Assets Side, as has also been for a considerable time the usual practice. Professional Accountants who themselves used the term for many years have lately been impressed at the meaning endeavoured to be put upon it, it never having previously occurred to them that anyone could truthfully assert that they believed that the amounts opposite the items on the credit side of a Balance Sheet were their actual realisable value. A Statement of Liabilities and Assets cannot possibly balance, one must of necessity be at least a trifle in excess of the other, and the use of the term therefore can only be looked upon as one of the many examples which constantly occur of the misuse of a popular expression.

Except in certain cases.

The credit side of a Balance Sheet is in some instances a Statement of Assets, such as of Banks, Discount Companies, Trust and Investment Companies, &c., where the items consist entirely of cash balances at banks, amounts

due from debtors, investments at realisable prices, mortgages and premises, but even in these cases the debit side would not be accurately termed the liabilities side, as, in addition to its including the capital, it also includes any reserve or surplus of unappropriated revenue.

Duty of Auditor.

At the same time it must not be understood that an Auditor has simply to ascertain that the amounts taken credit for in the Balance Sheet in respect of property or assets are merely their book values. Prior to the Auditor commencing his duties, the figures to be inserted in respect of these items have of course to be settled by the Directors, and the groundwork upon which they have to arrive at the figure to be taken credit for in respect of each item is of course the balances of the Ledger Accounts. This is also the basis from which the Auditor starts in his endeavour to satisfy himself that the amount finally decided upon by the Directors is or is not correct. "Auditors have to check the books and see that the amounts are correct, but it would be stretching the duty of an Auditor considerably beyond what is reasonable to say that he is to go into the books of a Company so as to be able to check the valuation." —*In re Kingston Cotton Mills Co. Ltd.*, II. Manson 631.

The first point for consideration, therefore, in criticising the credit side of the Balance Sheet may possibly be whether there is any reason to believe that the amount taken credit for in the previous Balance Sheet and passed by the Auditor himself or a previous Auditor was incorrect. It is of course usual to take for granted the previous Accounts are correct, unless from some information given to the Auditor, or from some other indication, he has reason to believe that such is not the case.

Credit Side may be divided into Four Headings.

The items in the credit side of a Balance Sheet may be divided into four classes :(Realisable Assets, Unrealisable Assets, Unrepresented Expenditure, and Losses.)

Among the first class may be enumerated Government Securities, Shares and Debentures in dividend-paying Companies, Freehold and Leasehold Property, Mortgages, Debts due to the Company, Cash, and Stock-in-Trade.

Examples of the second class are the amounts expended in acquiring or erecting Buildings for the purposes of the business, Plant, Fixtures, Workmen's Tools, &c.

The third class would include the amount paid for Goodwill, and the balance of any Expenditure Account, such as for advertising, spread over a term of years, while the fourth would consist of the deficiency to date on the Profit and Loss Account or Revenue Account, and any Special Loss Account which might be brought direct into the Balance Sheet.

Government Securities.

Under the general heading of "Government Securities" may be included all investments the repayment of and the dividends on which are guaranteed by recognised Governments. This heading, however, unless full details are given, is very unsatisfactory, and Companies having miscellaneous investments of this nature may with great advantage adopt the division prescribed by the Life Assurance Companies Act, 1870, second Schedule, into British, Indian and Colonial, and Foreign Government Securities.

British.

When among the assets of a Company there is an amount under the heading "British Government Securities," the Auditor should ascertain that only those securities have been included whose repayment and dividends are guaranteed by the British Government.

Indian and Colonial.

Indian Government and Colonial Government Securities should, therefore, not be entered here, as the dividends thereon are guaranteed only by their respective Governments, and not by the Home Government.

It is also desirable, but not necessary, to give the details of each class of security, the amount representing each being stated in an inner column, the total only being extended.

Foreign.

The vast difference in the relative value of the securities of Foreign Governments is such that an Auditor should endeavour to induce the Directors to state on the face of the Balance Sheet the name of each investment in Foreign Government Securities, with the respective amounts taken credit for.

It would be scarcely more absurd to place before shareholders a Balance Sheet with the entire property of the Company stated in one amount, under the heading "Assets," than to give them one with investments in several Foreign Government Securities under a heading without any details.

While some Governments pay the stipulated interest to the holders of their bonds, which are readily saleable, and in some instances are at a premium above their nominal value, others have not paid the interest on their loans for years, and, consequently, the market values of their securities are at a considerable discount.

Shares and Debentures in Joint Stock Companies.

When a Company holds, as an investment, the shares or debentures of any other Company, the name of each Company, together with the number of the shares or debentures held in each, should be stated, also their respective amounts; but an Auditor has no authority to require this to be done. In the case of shares, the amount paid up on those of each Company should also be stated, and any liability to further calls, but it is not considered a suitable investment for a Company to hold shares of other Companies which are not fully paid up.

If, however, there is any liability attached to holding shares in which the money of the Company is invested, the shareholders should be made aware of this fact by its being disclosed in the Balance Sheet, so that it may either meet with their approval or cause them to take steps to be released from this liability by instructing their Directors accordingly. Should the Balance Sheet be silent on this point the Auditor should call the attention of the shareholders to the contingent liability in his Certificate or Report.

Investments should stand in the names of the Trustees.

All investments should be made in the names of the duly appointed Trustees of the Company, but should there be none, they should be held in the names of two at least of the Directors, and never in the name of an official of the Company or of one of the Directors.

It should be distinctly stated whether the values given to the investments are the cost price, market price, or estimated value.

The first-named is the most usual one adopted by Companies, and is certainly the best so long as the cost price does not exceed the market value. When an estimated value is inserted, the Auditor should guard against too sanguine a calculation being taken credit for.

Freehold and leasehold property are very frequently found among the investments of a Company. With reference to the former, the Auditor must be careful that the amount actually paid for the freehold itself is that which is brought into the assets as representing its value. All costs and other professional charges incidental to the acquisition of the freehold should strictly be charged against the Revenue Account, and not added to the actual purchase money ; but, as the practice is to the contrary the Auditor cannot raise any formal objection in his Certificate should this be done. Freehold Property.

The method of dealing in the Accounts with leasehold property has been already treated in Chapter IX. The amount which should be brought into the credit side of the Balance Sheet is, of course, the balance of the Ledger Account after the proper amount has been written off and charged against the Revenue Account. Leasehold Property.

If the Auditor has succeeded another Auditor in his duties, he should, of course, ascertain if the proper sum has been written off the Lease Accounts and charged against the previous Revenue Accounts, and that the balance as set out among the assets is a fair and proper sum to be there inserted as the present value of the leases, and for this purpose the table in the Appendix will be of assistance to him.

Unless the business of the Company (among whose assets the heading " Mortgages " appears) consists solely in making advances abroad, the sums lent on mortgage on property out of the United Kingdom should be Mortgages.

separately stated, and not be included under the above general heading without remark.

The Life Assurance Companies Act, 1870, insists on this being done by Life Assurance Companies, and all other Companies should be recommended by their Auditor to follow this example.

Mortgages on freehold and leasehold property should not be mixed up with mortgages on other property, such as on reversions or life interests, or on stocks or shares. Again, money borrowed on mortgage under the authority of an Act of Parliament for a fixed term of years, where the principal is either repaid by equal annual instalments or the principal and interest together in a certain number of years, should not be included under one heading with those mortgages which can be called in by notice in the usual way.

Loans.

Unless it is part of the legitimate business of a Company to make advances, the heading "Loans" is a most objectionable one to be found on the credit side of a Balance Sheet.

When, however, the funds of a Company have been applied to making advances which have not been repaid at the date of closing the books, the Auditor should ascertain that the amount then due from borrowers has been clearly stated under the above heading. It should not be included among the "Investments" or "Sundry Debtors," or disguised under any other heading.

"An Auditor has nothing to do with the prudence or imprudence of making loans, with or without security." —*In re London and General Bank* (No. 2) [1895] 2 Ch. 682.

Loans by a Company transacting Life Assurance business on its policies have to be separately stated.

Sundry Debtors.

After deducting from the total amount shown in the Company's Ledgers to be due to it from its customers the allowance for bad and doubtful debts charged against the Revenue Account, as explained in Chapter X., the balance, representing the actual amount expected to be

ultimately realised, should be placed on the credit side of the Balance Sheet under "Amounts due from Sundry Debtors," or a similar heading.

Bills Receivable on hand.

The amount of the Bills Receivable on hand may be included under the same heading as the amounts due from sundry debtors, but it is more correct to state it separately. When a Bill Receivable has been discounted, as far as book-keeping is concerned it entirely disappears, although subject to the liability before alluded to, and is not therefore included on the credit side of the Balance Sheet.

Agents' Balances.

When a Company employs agents as a means for obtaining business, the amount either remaining in their hands, or which has to be collected by them and accounted for, should be stated separately and not included with "Amounts due from Sundry Debtors."

The Auditor should be careful that commission and all other charges which will be allowed to the agents are deducted from their balances and charged against the Revenue Account under their proper headings, so that the difference only, which is the amount the Company should ultimately receive, is taken credit for in the Balance Sheet.

A list of the agents' balances should be prepared in the same manner as suggested previously for the sums due from the ordinary debtors, and those amounts which it is considered will not be ultimately realised may be treated as bad or doubtful debts.

Company's own Shares.

When a Company, whose shares are not fully paid up, holds any of its own shares as an investment, the particulars should be clearly set forth in the Balance Sheet, and not be included in the amount representing the value of the shares of other Companies held as an investment.

Unless this be done the shareholders are not fully aware of the extent of their liability in the event of the Company going into liquidation, for, should that happen, the shareholders, in addition to having to meet calls made on their own shares, would be liable, in the proportion of their

respective holdings, to pay the amount which would otherwise be raised by the payment of the calls made on these shares held by the Company were they in the hands of private and responsible owners.

The House of Lords decided that although the Articles of Association of a limited Company, formed for the purpose of carrying on a manufacturing business, authorised the Company to purchase its own shares, such a Company had no power under the Companies Acts to make the purchase, and that it was *ultra vires*. In delivering his own judgment Lord Macnaghten expressed his opinion that if a power to purchase its own shares were found in the Memorandum of Association of a limited Company, it would necessarily be void.—*Trevor v. Whitworth*, 12 App. Cas. 409.

Interest on Investments due and accrued.

The interest and dividends due on investments, but not received at the date of closing the books, as well as any accrued interest, should, as stated in Chapter X., be taken credit for in the Revenue Account, and, consequently, the same amount must be taken credit for in the Balance Sheet.

Cash at Bankers.

Under the heading "Cash at Bankers" may be included not only the balance of a current Account, but also any sum that may have been placed on deposit; also any balance in the hands of the Bankers to meet any outstanding dividend warrants.

For the purpose of verifying the correctness of the balance stated in the Balance Sheet to be in the hands of the Company's Bankers, the Auditor should agree it with the Bank Pass Book, and he should either also ascertain on inquiry at the banking house that the balance shown therein agrees with the Banker's Ledger, or obtain a Certificate from the Banker of the balance at the close of business on the date of the Balance Sheet.

The cash balance shown in the Balance Sheet should agree with that of the Cash Book, but it is not usual, as previously explained, for this sum to be identical with that found in the Pass Book, for the reason that

the latter is affected by cheques *in transitu*, both debtor and creditor.

Under the heading "Cash in Hand" should be stated the amount of the balance of the Petty Cash Book not accounted for by any expenditure, and which should, therefore, be in the possession of the cashier. Cash in hand.

As the Auditor seldom commences his duties before at least several days have elapsed after the date on which the books are closed, he can only check the correctness of this balance by ascertaining that the cashier has in hand the amount unaccounted for by him in the Petty Cash Book at some subsequent date.

It is the custom in many offices to require the cashier to pay into the bank, on the day on which the books are closed, the balance of cash in his hands. This not only proves that the cashier has the money in his possession, but also spares the Auditor a somewhat disagreeable duty.

When examining the cash in hand the Auditor has frequently presented to him, as accounting for part of the balance, cheques received not paid in, payments made in advance to clerks for salaries, to be deducted when the monthly or weekly cheque is drawn for that purpose, and perhaps some other small advances; the Auditor must satisfy himself that these advances are properly authorised.

The amount to be taken credit for in respect of stock-in-trade is the same as that which appears on the credit side of the Revenue Account. Stock-in-Trade.

A Contractor, Steamship Builder, or a Company carrying on any business of this or of a similar nature, is entitled to take credit in its Profit and Loss Account, and consequently in the Balance Sheet, for "Works in Progress." In proof of the amount taken credit for each contract or piece of work, there should be produced to the Auditor sheets, certified by responsible officials, showing the cost of material, including any unpaid for and included among the liabilities, the wages paid, and any other item which can be specially hypothecated Works in Progress.

to the works in progress. If any payments have been received on account they must be deducted from the amount taken credit for, or the amount of the payments may be included in the liabilities.

Office Furniture.

The Auditor should be satisfied that the amount taken credit for Office Furniture does not unduly exceed its value. A percentage should be written off periodically, and charged against the Revenue Account for depreciation, until the balance of the Ledger Account has been reduced to the amount representing its value.

Purchase of Business, &c.

When a Company has been formed for the purpose of acquiring and carrying on an established business, the consideration may be either money, shares (fully paid up or otherwise), or partly money and partly shares. In any case the consideration can only be entered in the Books of Account as if it were paid for in cash, under some appropriate heading, such as that in the margin.

So long as the Company is prosperous and its shareholders receive a satisfactory dividend, this Account is apparently as good an asset as a realisable investment, but in the event of the Company going into liquidation the greater part, if not the whole, of its value at once disappears.

Sinking Fund for same.

It is, therefore, very desirable, instead of dividing all the profits among the shareholders, for a sinking fund to be raised, so that at the end of a certain period this Account may be either written off, or be reduced in amount to a saleable value. If this plan be adopted also with other Accounts, representing expenditure, and they have by that means been abolished, the shareholders will eventually have their money invested in realisable securities.

If the capital of a Company, or even part of it, has been invested in the acquisition of a business for a term of years only, a sinking fund should be raised sufficient to redeem the capital at the expiration of this term.

The foregoing remarks apply to all Companies whose capital or part of it has been expended in the acquisition or establishment of the business to carry on which it has been formed.

For example : the capital of a Manufacturing Company is partly required either for acquiring the building, plant, machinery, and goodwill of an established business, or in erecting the necessary buildings, purchasing the plant, &c., and creating a market for the sale of its manufactures. That of a Mining Company is partly required either for buying a proved and developed mine, with its necessary plant, &c., or in paying wages for sinking the shafts, driving the adits, purchasing bricks, plant, &c., and for completing the operations necessary to enable the Company to earn a revenue in the future, and although the Memorandum and Articles of Association of a Company may authorise the payment of dividends without providing for the return of capital expended on what is termed a wasting asset, it is distinctly unwise and unbusiness-like to take advantage of such a power.

Expenditure on Development of Mine.

Directors and Auditors of Mining Companies are frequently at conflict as to the proper apportionment between capital and income of expenditure connected with the development and extension of the workings of the mine.

In the absence of any provisions in the Articles of Association preventing them, Directors may safely employ upon any class of mining work which they deem expedient in the interests of the Company, including any work undertaken with the object of striking at a lower level beds of ore discovered in the higher levels and believed to exist at a greater depth, any moneys of the Company in their hands not wanted in a reasonable course of business for other purposes, as *e.g.*, payment of existing debts, or providing for a Dividend declared or about to be declared. When the work has been done, it will be a matter of account as to how the amount expended is to be debited as between Capital and Revenue.

In determining this, the Directors should proceed upon the principle that anything which is of permanent value to the mine (in the sense that they cannot say that its

usefulness will be exhausted within any reasonable short time) may properly be debited to Capital, but that any work the usefulness of which will be exhausted at the end of some reasonably short period of time is to be regarded as an item of expenditure which should be brought into account in profit and loss, but distributed fairly over several years, and not all charged against the revenue of the particular year.

For example, improvements of, or additions to a Company's mills, so as to enable the Company to treat the ore extracted more effectually or more profitably, may properly be charged against Capital if the Directors, forming the best judgment they can, are of opinion that the usefulness of the mills will not come to an end, say, by the exhaustion of the ore at the end of a short period of time, or if they are of opinion that the buildings for purposes of realisation when the ore has been exhausted will be of increased worth equivalent to the additional amount expended, but otherwise the item should be treated as one to be distributed over such length of time as the additions will be of value to the Company.

Accounts should be kept at the Mines so as to apportion expenditure, and it is conceived that Directors will not be personally liable if they debit the expenditure upon development *bonâ fide* as between capital and Revenue according to the best of their judgment upon the principles above stated ; but they would be probably held personally liable if they dealt with a sum which in their judgment was within those principles, one which ought to be brought into profit and loss by way of distribution over several half-years, by debiting that to Capital, and never recouping capital in respect of it, and dividing dividends upon that footing.

To give a concrete instance : suppose the Directors expended money in driving a level to reach certain ore, which they believe to exist, and they find the ore, and as soon as it is worked out the level becomes useless, the profit of getting that ore is really the difference between

the sale price of the ore and the wages, &c., spent in getting it, including the wages spent in making the level to reach it, which, *ex hypothesi*, has become useless so soon as that ore has been extracted.

Plant, &c., purchased under a Hiring Agreement.

Plant and machinery are sometimes purchased under what is known as a hiring agreement, that is, an agreement in which it is provided that after the lessee has paid a rent for the use of an article for a certain number of years it shall become his absolute property on the payment of a nominal sum at the expiration of the period. Colliery wagons are frequently purchased under a five years' agreement of this description.

A Company is certainly entitled to take credit in its Balance Sheet for a proportionate part of any payments of this nature, after charging the Revenue Account with a fair and reasonable amount for the use of the articles acquired under the hiring agreement.

Preliminary Expenses.

The expenses incurred incidental to the obtainment of the share capital of the Company are, when they are not borne by the Vendor, usually collected under the heading of "Preliminary Expenses." As it would press unfairly on the Revenue Account of the first year were the total amount thus expended charged against it, it is usual, as already explained in Chapter IX., for the Directors to charge only a proportion, varying from one-tenth to one-fifth, against each year's Revenue Account, and to place the balance, until the Account be thus gradually extinguished, on the credit side of the Balance Sheet.

The Auditor's duty, therefore, in dealing with this Account, is to ascertain first of all by whom the Expenses of floating the Company have to be borne. If the prospectus or the Agreement between the Vendor and the Trustee on behalf of the proposed Company, afterwards adopted by the Company, states they are to be paid entirely or partly by the Vendor, he must see that the Company are not charged with them, or only to the authorised extent; if they are to be borne by the Company, he should not allow any expenses to be included but those actually

incidental to the obtainment of the share capital, or to making the necessary arrangements for the Company to commence its business, and when a prospectus has been issued he must satisfy himself the Preliminary expenses do not exceed in amount the sum stated therein.

Particulars to be included therein.

The following disbursements may be properly brought into the "Preliminary Expenses" Account, and any others in addition legitimately and properly expended, as indicated above, connected with the formation and establishment of the Company.

The legal expenses for the preparation of the Memorandum and Articles of Association, the necessary agreements for the purchase of any business or property, filing the necessary documents with the Registrar of Joint Stock Companies, and generally for all the legal work transacted on behalf of the Promoters and Directors of the Company until the first allotment of shares has been made, including stamps and other expenses out of pocket.

The legal and Parliamentary expenses for obtaining a private Act of Parliament incorporating the Company, and for obtaining, if necessary, an extension of the same.

The printers' and stationers' bills for printing the private Act, Parliamentary papers, Memorandum and Articles of Association, prospectuses, notices, plans, books of account, &c.

The advertising account for the advertisement of the prospectus and notices.

The brokerage paid to those employed by the Directors to place the shares, usually a small percentage on the capital introduced, provided the payment of brokerage is, in the case of a Limited Company, not contrary to the Memorandum and Articles of Association.

Allowed to Promoter of Company.

"Although a promoter of a Company cannot be considered an agent or trustee for the Company, the Company not being in existence at the time, yet the principles of the law of agency and trusteeship are applicable to his case, and he is accountable for all moneys obtained by him from the

funds of the Company without the knowledge of the Company."

"The fact that a promoter is acting as agent for the vendors in getting up a Company for the purchase of their property does not exonerate him from accounting to the Company, when formed, for any secret profit made by him."

"In estimating the amount of the secret profit for which a promoter was accountable to a Company he was held entitled to be allowed the legitimate expenses incurred by him in forming and bringing out the Company, such as the reports of Surveyors, the charges of Solicitors and Brokers, and the cost of advertisements; but not a sum of money which he had expended in obtaining from another person a guarantee for the taking of shares."—*Lydney and Wigpool Iron Ore Co., v. Bird*, 33 Ch. D. 85.

Spreading Expenditure over a term of Years.

The following clause, or one similar, is frequently inserted in Articles:—

"Any expenditure which, in the opinion of the Board, shall be of an extraordinary nature, and not fairly chargeable against the profits of the half-year in which they were incurred, may be treated as Suspense Expenditure, and may be spread over a series of years as the Board may determine, and the amount of such expenditure for the time being outstanding may for the purposes of calculating the profits of the Company, and for the purpose of dividends, be reckoned as an asset."

It is considered that this clause is sufficient authority for an Auditor to pass without comment a Balance Sheet with expenditure thus treated therein.

Balance of Revenue Account (Deficiency).

Perhaps the most unsatisfactory item which can be found on the credit side of the Balance Sheet is that representing a deficiency. This is usually the result of a loss on the trading, brought from the Revenue or Profit and Loss Account, and as long as it exists no dividend should be paid to the shareholders.

The Auditor should require the existence of a deficiency to be clearly set forth in the Balance Sheet, and in such

a manner that the amount could not possibly be supposed by the shareholders to represent an asset.

Balance Sheet should be so explicit as to be understood by every Shareholder.

The Balance Sheet, where finally approved by the Auditor, should be so clearly stated that every shareholder of ordinary intelligence can understand it. A knowledge of book-keeping is not essential to the comprehension of a Balance Sheet properly drawn ; and, although according to the recognised method of preparing a Balance Sheet, Accounts representing the balance of certain Expenditure Accounts are placed on the same side as the assets, the Auditor should endeavour to induce the Directors to have them so stated that they cannot be mistaken for realisable and marketable securities.

"A full and fair Balance Sheet must be such a Balance Sheet as to convey a truthful statement as to the Company's position. It must not conceal any known cause of weakness in the financial position, or suggest anything which cannot be supported as fairly correct in a business point of view."—*In re London and General Bank* (No. 2) [1895] 2 Ch. 692.

CHAPTER XII.

SPECIAL POINTS FOR CONSIDERATION IN VARIOUS CLASSES OF AUDITS.

Banks—Colonial Banks—Savings Banks—Discount Houses—Insurance Companies—Building Societies—Judicial Trustees—Solicitors—Stockbrokers—Single Ship Companies—Mines, Collieries, &c.—Co-operative Stores—Landed Estates—Executors and Trustees—Newspapers—Theatres—Clubs—Schools and Colleges.

In the Chapters dealing with the Revenue or Profit and Loss Account and the Balance Sheet reference is made to the various items which are usually found in these Accounts, but in each class of audit there are special points not usually to be found in audits of a different class, which require the attention of the Auditor before he affixes his Certificate. Each class of Audit has special points for consideration.

Banks.—The very large amount of available cash which a Bank is compelled to keep renders it necessary for the Auditor to attend at the close of business on the day on which the Balance Sheet is to be dated, to count the Bank Notes, the reserve of Gold, Silver, and Copper in bags, and Cash in the till. The balance at the Bank of England and other Banks should be verified by a Certificate direct from these Banks. Banks.

The Securities held against the Loans should be examined. When temporary Loans are made to customers on deposit of their securities lodged for custody, ascertain there is sufficient cover. For Loans made on deposit of Deeds, see the Deeds, and ascertain that they are conveyed to the partners of the Bank, or to the Officials if a Company. For Loans made to Stockbrokers from Account to Account, check the Securities with the lists lodged by each Broker, and ascertain that there is a sufficient margin as cover.

The Bills discounted should be examined one by one against the books in which they are entered.

Check the sheets containing the customers' balances with the Ledgers, and where there are overdrafts ask for the Security; although it is impossible to state that a Bank has no right to lend to certain persons without any security. Where there is a Loan long outstanding, call attention to the same. Ascertain that Interest on Loans is charged periodically against the Current Accounts of the Customers.

Examine the Investments of the Bank in accordance with the principles laid down in Chapter XIV.

Colonial Banks.

Colonial Banks.—The chief receipts of the Branch in England of a Colonial Bank are money received from Depositors, which amounts should be checked with the Counterfoils of the Deposit Receipt Books.

Deposits paid off during the period must be checked with the Surrendered Deposit Receipts.

When the Bank lends money to Stockbrokers from Settlement to Settlement, the Auditor should attend before any variation takes place in the Securities deposited, and examine them with the Borrowing Notes from Stockbrokers, and also ascertain that the advances are made on sufficient margin.

The balances in the Loan Ledger should be agreed with the list of Loans agreeing with the General Ledger. Bills Receivable should be examined with the Bills Receivable Book. The Bills Payable Book and Bills Receivable Book and the Bills Negotiable Book should be checked into the Head Office Account, for the purpose of ascertaining that the Head Office has been properly debited and credited with the amounts paid or received.

The Books containing the drafts issued on the Head Office and Letters of Credit should also be checked with the Head Office Account.

Savings Banks.

Savings Banks.—Check the extracted list of balances independently of the office Staff. Mark off the balances consecutively as shown in the Deposit Ledgers, calling out the number of each account, the assistant taking the list of balances as prepared by the Staff and calling out the

amounts entered therein. The total of this list should be checked and compared with the total liability shown by the account "Depositors" in the General Ledger, and the list should be certified by the Auditor to be correct.

The interest credited to depositors should be thoroughly tested.

The balance at the close of the half-year or other period fixed for audit should be verified both as to cash in hand and Treasurer's balance, or preferably the Secretary or Actuary should pay into the Treasurer's account all cash in hand at the close of each period. A reference to the Bank Pass Book should not be regarded as sufficient evidence of the balance in hand, but a formal certificate from the Treasurer or Banker should be called for.

No audit of Savings Bank Accounts can be considered complete unless it comprises an independent examination and comparison with Deposit Ledgers of Depositors' Pass Books as presented at the Bank. For this purpose the Auditors should attend frequently at the Savings Bank and should carry out the comparisons in question to such an extent as will ensure the examination of at least 10 per cent. of the Pass Books extant in the course of the year.

The frequency of the audit is fixed by the Act at a minimum of once each half-year, but it should, if possible, be continuous as to examination of Pass Books, and the Assets and Liabilities should be examined in total each quarter. The periodical meetings of Trustees and Managers (or Committee of Management) should coincide with the periodical audits, and the Auditor should report direct to them.

Examine the Accounts of the National Debt Commissioners for transfers, purchases, sales of stock, interest, &c.

Ascertain that the statutory limits of yearly (£50) and total deposits (£200) are not exceeded.

In the case of Banks making special investments under Section 16 of the Act of 1863, the Auditor should verify the Securities held by the Bank for moneys advanced from the funds of the Special Investment Department, and should state in his Report the manner in which this has been done.

Discount Houses.

Discount Houses.—The Bills on hand should be checked with the Bill Books for the day previous to the audit, the additions of the Books checked, and the amounts compared with the entries in the Bill Balance Book.

The Securities belonging to the House should be compared with the Security List, and those appearing on the List as being in the hands of the Depositors or the Bank for safe custody should be checked with the receipts given by the holders of such Securities. The Securities held against Loans should be verified with the entries in the Contract Lists, and the amount of loan and security checked into the Summary.

The prices on the list should be checked with the Stock Exchange Official List of the day, so as to ascertain that the loans are fully covered.

The balances of the following Ledgers should be checked :—

"Deposits without Security" Ledger, including interest unpaid, constituting a liability in the Balance Sheet.

"Deposits against Security" Ledger, including interest unpaid, and constituting a liability in the Balance Sheet, the hypothecated securities, consisting of Bills discounted and Companies' Securities, appearing *per contra* among the General Assets.

"Loans" Ledger, being the balances of amounts advanced by the House, including interest unpaid and covered by security.

"Security" Ledgers. These show the amount of security, including Bills discounted in the hands of Depositors against their deposits with the House.

The "Calendars" should also be checked, as they show the Bills due on each date and the amount rediscounted. They also furnish the particulars required for the Rebate Account, which shows the amount debited to the Profit and Loss Account, on account of discount on Bills discounted, which will mature in the next period. In the Statement for Rebate the daily amount of Bills falling due are entered, and the balances due after deducting the

Bills rediscounted, the number of days from the date of the Balance Sheet to maturity, and the amount written back as rebate, calculated on the average rate of the discount agreed upon.

As regards the Bills discounted, the balances in the Ledger may be checked as follows: With the Bills on hand, with those held for collection, and those out for collection, with the Bills deposited as security, and with the Bills rediscounted, as per the Ledger balance.

Insurance Companies.

Insurance Companies.—Test the books written up from the Agents' returns with some of the original returns.

Ascertain that claims have been sent in up to the date of the Balance Sheet from all the Agencies, and if none from any Agency, or if none for an unusual period from any Agency, inquire specifically into that Agent's Accounts.

Ascertain that the Agent's Commission has been charged in respect of all premiums taken credit for; also see that the Liabilities include all Premiums due to other Companies for re-insurances; also for the accrued proportion of Annuities payable.

The Register of Investments would show the amount of each investment, and the date when the interest is payable. The Auditor should satisfy himself that all interest and dividends due have been received.

Ascertain that the accrued interest on Investments and on Loans taken credit for in the Balance Sheet has not been over-estimated.

Building Societies.

Building Societies.—Request the Manager to send out a notice previous to each audit to the Members, asking them to send in their Pass Books for the purposes of the audit.

Check the cash in hand at the close of business on the date of the Balance Sheet.

Examine the Pass Books, or selections from the Pass Books if numerous, with the balances in the Ledgers.

Check the Counterfoils of Deposits and other Receipt Books into Deposit and other Cash Books, and examine Vouchers with General Cash Book for Commission on

Advances on account of Shares for Balance Deposit Applications. Check additions of Cash Books and Ledgers.

Call over the Subscription Cash Books into the General Cash Book.

Check Deposits received and paid from the Deposit Cash Book into the General Cash Book.

Check or test postings from the Cash Book into the General Ledger.

Check balances of Investing Ledgers, Deposit Ledgers, and Advance Ledgers into the Balance Book.

Ascertain that Rents have been received from properties in hand.

Ascertain that no interest has been taken to credit of Revenue Account in respect of Borrowers whose Properties are in hand, unless proof is given that the security is ample to cover the balance.

See that the amount received on deposit or loan does not exceed two-thirds of the amount secured to the Society by mortgages from its members.

Examine the securities in accordance with the principles laid down in Chapter XIV.

Compare Parts 1 and 2 of the Schedule with the corresponding statement of the previous year, and if any property which had been in hand upwards of twelve months, according to that Statement, is omitted in the one under audit, ascertain whether it has been disposed of, also ascertain if the properties referred to in Part 1 of the Schedule last year, and still in hand, have been transferred to Part 2.

Part 3 should also be compared with the Schedule of the previous year, so that if any "Advance" has been removed it can be inquired into by the Auditor. The Rent Ledger should be inspected in all these inquiries.

Judicial Trustees.

Judicial Trustees.—In auditing the Accounts of Judicial Trustees, the Auditor should peruse the following documents, which, in accordance with No. 4 of the Rules under the Judicial Trustees Act, 1896, have to be supplied

by the applicant for the use of the Court when making the application for the appointment of a Judicial Trustee :—

A short description of the Trust.

Short particulars of the Trust property, with an approximate estimate of its income and capital value.

Short particulars of the incumbrances (if any) affecting the Trust property ; also the complete Statement of the Trust property, accompanied with an approximate estimate of the income and capital value of each item, as required by Rule 8 to be furnished by the Judicial Trustee to the Court.

Solicitors.—Costs taken credit for should, in the absence of an Agreement between all the partners, include undebited Costs as well as debited, but the Auditor must be satisfied that proper deductions have been made from both for disallowances on Taxation, and allowances which may be voluntarily made to Clients on settlement. Outstanding Fees to Counsel should be included in Liabilities. Solicitors.

Clients frequently appear in Solicitors' books as creditors owing to their having made payments on account of costs of pending Actions, while they are really debtors, in consequence of undebited Costs. Accounts of this description must be adjusted.

Credit should be taken in respect of Premiums received from Articled Clerks for the proportion of the time expired under the Articles, leaving the balance on these Accounts in the debit side of the Balance Sheet.

Stockbrokers. — These books are balanced at every Account, and all balances carried down. The audit of the Accounts of a Stockbroker is one of the most troublesome description, and, to absolutely ensure the accuracy of the books, the following work is necessary :— Stockbrokers.

Clients' Department.

Call the Balances from those of the previous "Account."

Call the Contango Journal to the Clients' Ledgers at the opening and the close of the "Account."

Call the Bought Journal to Clients' Ledgers.
Call the Sold Journal to Clients' Ledgers.
Call the Cash Book to Clients' Ledgers.
Call the Sundries Journal to Clients' Ledgers.
Call the Dividend Journal to Clients' Ledgers.
Call the Rights Journal to Clients' Ledgers.

Jobbers' Department.

Call the Balances brought over from the previous "Account" in Jobbers' Ledgers, if any, and check any differences adjusted in subsequent "Accounts."
Call the Contango Journal to the Jobbers' Ledgers at the opening and close of the "Account."
Call the Bought Journal to the Jobbers' Ledgers.
Call the Sold Journal to Jobbers' Ledgers.
Call the Cash Book to Jobbers' Ledgers.
Call the Sundries Journal to Jobbers' Ledgers.
Call the Rights Journal and Dividend Journal to Jobbers' Ledgers and examine the Dividend List to see the Dividends and Rights have been duly debited or credited.
Call the Clearing House Journal to Jobbers' Ledgers.
Call the "Names Clearing" Journal to Jobbers' Ledgers.
Call the Names Receivable Book to credit side of Jobbers' Ledgers.
Call the Names Payable Book to debit side of Jobbers' Ledgers.
See that the "Splits" have been properly charged and adjusted.
Call the Cash to Names Receivable Book.
Call the Cash to Names Payable Book.
Call the Dividend Journal to Names Books.
Call the Cash to Clearing House Journal.

Stock Department.

Check the Stock Ledger, so as to ascertain that, for all cash paid on account of Stock, Stock has been

received from the Jobber and delivered to the Client, and that, for Cash received, Stock has been received from the Client and delivered to the Jobber and *vice versâ* ; and generally agree the transactions in Stock with the Clients' Ledger Accounts.

Go through the Ledgers and ascertain that the Shares on the two sides of all the Accounts agree, *i.e.*, on one side the Stock carried over *plus* the purchases must agree with the Stock sold *plus* the Stock carried over at the end of the "Account." Any difference found must arise from deliveries of Stock, which should be vouched by the Stock Ledgers.

Examine the Carry-over Account with the Securities for the purpose of ascertaining that all Stock taken in for Clients is in the hands either of the Broker or his Bankers.

Call Impersonal Accounts, including Splits, Stamps and Fees, Postages, Interest, Commission, Partners' Drawings, and Expenses Accounts from Cash Books, Journals, &c., into the Private Ledger.

It has to be borne in mind that the Stock carried over, taken in, &c., is constantly changing, so that it can only be effectually vouched by tracing the deliveries and the cash received or paid through the books.

Single Ship Companies.

Single Ship Companies.—The Articles of Association and Agreements with Managing Owner, Captain, &c., should be perused and notes made of any matter affecting the Accounts.

Ascertain that no expenditure is added to "Purchase of Ship" Account when the final payment has been made to the Vendor and the total first cost has been divided into sixty-four shares. The "Voyage" Account should contain all payments made for outfit, insurance, disbursements at each Port abroad, expenses at Port of discharge inwards, Captain's emoluments, and the Managing Owner's Commission, and vouchers for the Outfit Account, and the

Agents' Accounts from the various Ports abroad should be produced. The correctness of the Foreign Exchange and the calculations should be ascertained.

The "Voyage" Account should be credited with outward freight, freights received abroad, homeward freights, forfeited wages from the Portage Bill, sales of stores, Port charges refunded, &c. The "Captain's" Account should be charged with advances to the crew, their wages, cash to himself, and payments on account of his outfit; on the other hand, it should be credited with the Portage Bill, after deduction of forfeited wages, his disbursements abroad, and the remuneration, which should be in accordance with his Agreement.

By an examination of the Policies of Insurance and special clauses therein it can be ascertained if the ship has been fully protected, and that Returns for risks, such as laying up, not incurred, and unexpired time have been credited.

No profit should be taken to credit in respect of an uncompleted voyage.

When several Companies are in one office, the office expenses should be divided on some equitable basis.

Mines, Collieries, &c.

Mines, Collieries, &c.—Special care has to be taken to ascertain that expenditure of various sorts has been fully charged against Revenue. "Development" expenditure is apt, in the absence of severe criticism by the Auditor, to appear on the credit side of the Balance Sheet, when it should be charged against Revenue. (For Special Remarks on this subject *see* Chapter XI.) Shafts are only of value so long as the minerals to obtain which they were sunk are workable by means of that shaft, and the cost of sinking should be charged gradually against Revenue, so that when the shaft is abandoned it is not represented by any expenditure on the credit side of the Balance Sheet. The same remarks apply to Tramway Lines laid underground, to enable the seam distant from the bottom of the shaft to be more economically worked.

Pit Timber is very perishable, and should be entirely

charged against Revenue as used, unless very satisfactory reasons are given to the Auditor for leaving a balance on the credit side of the Balance Sheet.

Credit must not be taken in the Balance Sheet for Dead Rent paid in respect of any time so far back as to render it not recoupable out of Royalties. Royalties should be charged in respect of all minerals taken credit for, either sold or in stock.

When Wagons are held on a Hire-Purchase Agreement, ascertain that a full proportion of the periodical payments have been charged against Profit and Loss. If any Agreements with Railway Companies ascertain that due provision is made for Liabilities in respect thereof. The Stock of Minerals should be valued for the Balance Sheet at the cost of getting, including the Royalties, the Wages as ascertained from the Pay Sheets, &c. Depreciation in respect of Lease, Plant, Wagons, Private Railway, &c., should be charged against the Profit and Loss Account.

Co-operative Stores.

Co-operative Stores.—Some of the Invoices for purchases should be compared with the Receiving Sheets and Invoice Journal, for the purpose of ascertaining that the goods paid for have been actually received, and have been charged to the Purchases Accounts of the various departments. This will also prevent goods received being sold or taken into stock before the Department has been charged with the purchase ; it will also be a check on the Departmental Purchases (if any) in cases where a separate book is not kept for the purpose.

As regards Sales, certain of the duplicates of the bills handed to customers should be compared with the Abstract prepared by each Salesman, and the totals of the Abstracts should be traced in the "Dissecting" Journal, and thence to the Cash Book. Should there be any credit sales, some of the duplicates should be checked with the Journal reserved for each Sales Ledger.

Landed Estates.

Estate Accounts.—The Rent Roll should be examined with the Terrier for the purpose of ascertaining that the

Agent has included the whole of the properties in the Rent Roll, or accounted for those stated to be unlet.

At the first audit, Leases should be perused for the purpose of ascertaining the actual rentals agreed to be paid; in future audits it will be sufficient to refer to the previous Rent Rolls, and to the Leases granted since that date.

The Agent should produce some authority from the Landlord for reductions or allowances.

The arrears brought forward into the new Rent Roll should be compared with the arrears at the closing of the previous Rent Roll. Where houses are allowed rent free to the Agent, or any of the staff or employees, lists should be produced, certified if possible by the Landlord.

For Manors the original Statement received at the Estate Office from the Stewards (if any) should be examined. Where mining property is held, the amounts received from the Lessees of the mines for royalties should be compared with the Certificates of the Landlord's Mining Surveyor or Check Viewer.

Miscellaneous receipts, such as sales of Timber, Stock, Dairy Produce, Game, &c., should be checked by Tickets taken from a Counterfoil Book kept by the Foreman of each Department, and sent to the Office.

Ascertain that all buildings, stocks, farm implements, &c., are insured, and that the premiums are paid.

Executors and Trustees.

Executors and Trustees.—The usual Accounts submitted to Auditors will be found in Chapter VII. In auditing the Cash Book, the Auditor should ascertain that all amounts due to the Testator at the date of his death have been collected, or obtain an explanation as to those not received; he must also be satisfied that dividends and interest on investments, rents and other income have been accounted for; while, as regards payments, he should require the vouchers, including Broker's Contract Notes, to be produced, and also ascertain that all payments are duly authorised by the Will or are otherwise legal. Before certifying any Accounts which are intended to relieve the Executor or Trustees, the Auditor

should ascertain that all payments directed by the Will, such as debts, legacies, &c., have been made, and that all duties have been paid.

After the payment of the funeral and testamentary expenses, the payment of the debts is subject to the following rules of priority :—

1. Debts due to the Crown.
2. Debts having priority by Statute.
3. Debts of record, *e.g.*, judgments and recognisances.
4. Specialty and simple contract debts.
5. Voluntary bonds.

When an estate is not sufficient to pay all debts and legacies it must be applied in the following order, which is known as "marshalling" the assets :—

1. Personalty not bequeathed, or only bequeathed by way of residue.
2. A real fund, created specifically for payment of debts.
3. Real estate devised for payment of debts.
4. Real estate not specifically devised.
5. Real or personal estate devised or bequeathed subject to payment of debts.
6. General pecuniary legacies.
7. Real or personal estate specifically devised or bequeathed.
8. Real or personal estate which the Testator had power to appoint, and which he appointed by his will.
9. The paraphernalia of the Testator's widow.

The expression "Testamentary Expenses" in a will includes the estate duty in respect of the personal property of which the Testator or other person whose "Testamentary Expenses" are referred to was competent to dispose at his death.

A direction for the payment of "Testamentary Expenses" may extend to the expenses of administration under an intestacy.

A Testator by his will gave his residuary estate to Trustees upon trust to convert and to invest the net proceeds and pay the income to his wife during her life ; and

after her decease he directed his Trustees, after paying his widow's funeral and "Testamentary Expenses" and debts, to apply his residuary estate as therein mentioned. The Testator's wife survived him, and signed a document which purported to be her will. After her death the plaintiff and her brother, who were in the same relationship to the widow and were her next-of-kin, disputed the will, and the brother brought an action in the Probate Division to have a grant of administration to the estate of the widow made to him. The Court pronounced against the alleged will, but made no order as to costs. Letters of administration to the widow's estate were subsequently granted to the plaintiff with the assent of her brother.

Held, that the direction for payment of the "Testamentary Expenses" of the Testator's widow extended to (1) the costs and expenses of the plaintiff in obtaining the letters of administration, and in connection with the administration of the estate of the widow; (2) the costs of the brother of the action in the Probate Division; and (3) the estate duty payable on the death of the widow in respect of her personal property.—*In re Clemow*, *Yeo v. Clemow* [1900] 2 Ch. 182.

The plaintiff's costs of an unsuccessful action impeaching the validity of a will, though ordered by the Judge of the Probate Division to be paid out of the Testator's Estate, are not testamentary expenses.—*In re Prince*, *Godwin v. Prince* [1898] 2 Ch. 225.

Where a general power of appointment over a fund is exercised by will, the appointed fund does not pass to the Executor as such; consequently, the estate duty in respect thereof (in the absence of any direction in the will to the contrary) is payable out of the fund; but such estate duty falls within the description of testamentary expenses; consequently, where the will contains a direction to pay testamentary expenses out of the residue, the estate duty in respect of the fund is payable out of the residue.—*In re Treasure*, *Wild v. Stanham* [1900] 2 Ch. 648.

When pecuniary legacies or shares of the residue of a testator's personal estate are settled by his will, no part of either the estate duty or the settlement estate duty imposed by the Finance Act, 1894, is to be borne by the settled legacies or shares, but the whole of those duties must be borne by the general residue.—*In re Webber*, *Gribble v. Webber* [1896] 1 Ch. 914.

The Auditor should ascertain that all income, which is apportionable by the Apportionment Act, 1870 (*see* Chapter IV.), has been properly apportioned.

Newspapers. *Newspapers.*—Ascertain that a Reserve has been created in respect of amounts received prior to date of Balance Sheet for prepaid Advertisements in respect of Advertisements not inserted, and also for periodical subscriptions for the Newspaper itself.

Ascertain that the payments in respect of contributions which have appeared in the Newspaper to the date of the Balance Sheet have either been paid or included in the liabilities.

Ascertain that the amounts have been credited to Agents in respect of Newspapers charged to them in their Accounts but returned as unsold.

Theatres. *Theatres.*—Check the weekly Treasury Sheets with the vouchers and each weekly total into the Treasurer's Analysis Book, from which the expenditure is posted to the proper Ledger Account, also ascertain that all expenses are properly chargeable against the Theatre, and not against the Artistes. The balance as shown in the last Treasury Sheet of the year should agree with the Treasurer's balance as shown in his account in the Ledger.

Ascertain from the Daily Box Office Returns that the money has been paid into the Bank. There should not be any debtors in respect of Seats, except from the Libraries; the amount stated to be due from the Libraries should be checked by their own returns.

Ascertain that the amounts taken credit for in the Balance Sheet in respect of "Cost of Production" only include the actual cost of Scenery and Dresses, or, if it

includes any other items, such as Salaries, Gas, &c., that these can be hypothecated to rehearsals, and are not in respect of the ordinary current business of the Theatre.

Where there are tours in the Provinces, the weekly Returns signed by the Manager of the tour should be checked by the Vouchers.

Clubs.

Clubs.—Ascertain from List of Members that each Member's Subscription has been accounted for in the Cash Book. (In some Clubs there are several classes of Members, such as Town, Country, and Supernumerary.)

Ascertain that Entrance Fees of newly-elected Members are accounted for, also any Special Fees payable on election, such as to Library or Political Funds. The Auditor should also satisfy himself at each audit that these special fees are appropriated to the proper funds, and not mixed with the general income.

Ascertain that the Stock of Wines, Cigars, Mineral Waters, Playing Cards, &c., have been properly taken, and obtain Certificates from persons responsible for the Stock-taking.

Ascertain that no Wines the property of Wine Merchants are included in Stock stated to be the property of the Club.

Schools and Colleges.

Schools and Colleges.—Ascertain from the List the number of Undergraduates or Boys during each term, and that the proper Fees chargeable in respect of each have been received or brought to Account.

Ascertain that any amounts received in advance of the date of the Balance Sheet for Tuition Fees are reserved, so that they will appear in the Revenue Account in respect of the term for which they are paid.

Ascertain that all extras charged have been received, or included amongst the debtors.

If lands or houses are owned, the audit of the books relating thereto will be of the same nature as the audit of other Estate Accounts.

CHAPTER XIII.

PROFITS OF A COMPANY AVAILABLE FOR DIVIDEND.

The Directors, not the Auditor, recommend payment of Dividends—Definition of Profit—Four Systems of Account for Ascertainment of Profits of a Company—The Single Account System—The Double Account System—The Third System—The Fourth System—Limited Dividends of Gas and Water Companies—Arrears of Dividend—Income on Yearly and Half-yearly Bonds—General Remarks.

Directors, not Auditor, recommend Dividends.

THE profit of the Company having been ascertained from the Revenue or Profit and Loss Account in the manner already indicated in Chapter IX., there then remains for settlement the amount of profit available for the payment of dividend, and in some cases this requires very careful consideration by the Auditor. Dividends (with the exception of interim dividends) are declared by the Shareholders at their General Meetings, and it is the duty of the Directors, and not of the Auditors, to recommend to the Shareholders what amount out of the profit shown in the Accounts should be appropriated for the purposes of the dividend This recommendation can, however, be based only on the Accounts submitted to the Shareholders at the meeting, and certified by the Auditor, and "he must not certify what he does not believe to be true, and he must take reasonable care and skill before he believes that what he certifies is true."—*In re London and General Bank* (No. 2) [1895] 2 Ch. 683.

Responsibility cannot, of course, rest upon an Auditor for the declaration of an interim dividend, should such have been declared by the Directors, without consulting him in any way as to the advisability of paying such dividend.

"A dividend presupposes a profit in some shape, and to divide as dividend the receipts, say, for a year, without deducting the expenses incurred in that year in producing the receipts, would be as unjustifiable in point of law as it would be reckless and blameworthy in the eyes of business men."—*Verner v. General and Commercial Investment Trust, Limited* [1894] 2 Ch. 266.

Definition of term "Profit."

The various definitions of the term "Profit" by political economists are of little assistance to the Auditor in arriving at a decision as to whether he should, or should not, resist the payment of a proposed dividend, beyond, perhaps, their distinguishing between what is known as Fixed Capital and Circulating Capital, and it hardly comes within the scope of this work to discuss such questions, which are practically understood by every Lawyer and Chartered Accountant. What Auditors have really to consider is the legal interpretation of the word, and as Lindley, M.R., has said, "the word 'profit' is by no means free from ambiguity."—*Verner v. General and Commercial Investment Trust, Limited* [1894] 2 Ch. 266.

As long ago as 1849, Campbell, L.C., intimated that dividends are supposed to be paid out of profits only, and where Directors order a dividend to any given Account, without expressly saying so, that implicitly declares to the world that the Company has made profits which justify such a dividend. He added that if no such profits had been made, and the dividend had to be paid out of the capital of the concern, a gross fraud was practised, and in his opinion Directors were not only civilly liable to those whom they had deceived and injured, but were guilty of a conspiracy, for which they were liable to be prosecuted and punished.—*Burnes v. Pennell*, 2 H.L.C. 535.

Kekewich, J.

Kekewich, J., has given the following definition of profit: "The word 'profits,' like many other words in the English language, and even some of a technical character, is capable of more than one meaning, and it is often, and properly, used in more than one sense; and it seems to me that the two different senses of the word

'profits' afford the key to the solution of the difficulty which I have now to deal with. In the ordinary parlance, among mercantile men and lawyers, 'profits' mean that sum which periodically, at the end of the half-year, or year, or other time fixed by agreement, is divisible among the partners—a term which, of course, includes members of a company—as income. It is sometimes called 'net profits,' only to distinguish it from what are called 'gross profits.' It is the sum which is ascertained by the taking of a proper account of what has been made by trading, and is therefore distributable between the parties entitled. But the word 'profits' is also used properly in this sense: when you come to wind up a concern, you have to pay all the debts; you have to repay to each partner what he has brought in as capital; and after that has all been done, if the concern has been a successful one, there is a balance, and that balance is 'profit'; it cannot properly be called anything else. Whether you treat it as capital or whether you treat it as income is perfectly immaterial. The same persons receive both capital and income, and it is a matter for them to decide in what character they treat it. The best instance of that, because it is a more common one, is a partnership that is concerned in a single transaction, such as the purchase and sale, say, of a ship. The whole business of the partnership is first to purchase, and then, by proper proceedings, to sell the ship. There is no account in the meantime; it is impossible. The capital is found in the first instance. Certain moneys are expended, further, beyond the purchase, in negotiating the sale, advertising, and so forth. Then the property is realised, and ultimately you ascertain whether you have a profit or a loss. If you realise more than sufficient to pay all the expenses, and return the original purchase money, then the excess is a 'profit.'"—*Bishop v. Smyrna & Cassaba Railway Co.* [1895] 2 Ch. 270.

Lindley, L.J.

"There is nothing at all in the Acts about how dividends are to be paid, nor how profits are to be reckoned; all that is left, and very judiciously and properly left, to the

commercial world. It is not a subject for an Act of Parliament to say how Accounts are to be kept; what is to be put into a Capital Account, what into an Income Account, is left to men of business."—*Lee v. Neuchatel Asphalte Co.*, 41 Ch. D. 21.

Day, J. Referring to the particular case which had been argued before him, Day, J., said: "Profits may be taken here to mean the surplus of income after defraying all, at least necessary, expenses of making it."—*Last v. London Assurance Corporation*, 12 Q.B.D. 389.

Jessel, M.R. Jessel, M.R., said, in 1880, "Profits for the year, of course, mean the surplus in receipts after paying expenses, and restoring the capital to the position it was in on the 1st January in that year."—*Dent v. London Tramways Co.*, 16 Ch. D. 344.

Where a Banking Company with a paid-up capital of £500.000 sold part of its undertaking for £875,000, after deducting the paid-up capital and other incidental expenses there remained a net balance of £205,000, and the Directors proposed to treat this balance as profit, it was held by Chitty, J., that the £205,000 was profit on capital, and not part of the capital itself, that the Directors were justified in carrying this sum to the Profit and Loss Account, and, after appropriating to the Reserve Fund so much as they thought proper, might distribute the remainder as dividends.

Chitty, J. In the course of his judgment, Chitty, J., stated, as follows, the principles on which the accounts of a Trading Company should, in his opinion, be set out so as to arrive at profits available for dividend: "This is a trading company, and I have before me a Balance Sheet of 1891, to which I refer by way of illustration, to show how the Accounts of such a Banking Company are kept, and properly kept, in my opinion. I have before me the defendant Company's Accounts up to December, 1890. They put down on the one side their liabilities, treating properly the £500,000, which has been subscribed by the shareholders, as a liability, for the purposes of bringing it

into account, as against the assets, which they put down on the other side. Then, on the same liability side, they properly put their current liabilities, and certain other liabilities and Reserve Fund, which the Company, according to its constitution, is justified in making, and they add up the total amount of those liabilities. On the other side they put down their assets, and, for the purpose of giving information to the shareholders, they divide the assets into certain heads: 'Cash at Bank,' 'Bank Premises and Managers' Residences in Brazil and River Plate,' and then they add up the total on that side. They, of course —because there is not a suggestion that these Accounts are not kept with perfect propriety and perfect honesty— therefore put down on the assets side the money value of their assets, some being in money itself and some not. Then, when the two sides of this Account are compared, there is a surplus of £44,000 shown, which goes, according to the Accountant's regular method of keeping Accounts, to the liability side, and represents the balance of assets over liabilities. Now, what is the result of keeping an account in this form? The capital of the bank is intact, and the Accounts show it, and, after providing for the capital, there remains a surplus which rightly goes to the Profit and Loss Account. All that the Company is required to do, by force of the Companies Act of 1862, is to keep its capital intact, and not to pay dividends out of its own capital; in other words, to keep that capital for its creditors, and any others who may be concerned therein. That mode of keeping the account is an excellent illustration of the right way to provide profit and loss. Taking the figures on this Account, this sum of £44,000 is profit made, and profit available within the Act of 1862 for division among the shareholders, unless there is something in the Articles which would prevent the Directors, and prevent the Company, from dividing the sum which thus stands to their credit."—*Lubbock v. British Bank of South America* [1892] 2 Ch. 200.

Stirling, J. "There is no law to prevent a Company from sinking

its capital in the purchase of a property producing income, and dividing that income without making provision for keeping up the value of the capital. Fixed capital may be sunk and lost, and yet the excess of current receipts over current expenses may be applied in payment of a dividend, though where the income of the Company arises from the turning over of circulating capital no dividend can be paid unless the circulating capital is kept up to its original value, as otherwise there would be a payment of dividend out of capital."—*Verner v. General and Commercial Investment Trust, Limited* [1894] 2 Ch. 239.

A Company formed in 1830 for the purpose of working gold mines in Brazil, made large profits from its principal mine, and paid good dividends from 1835 to 1886, when the top of the mine fell in and blocked it up, making further work impossible without a previous expenditure of large sums of money for labour and machinery in re-opening it. To obtain the necessary funds for this purpose the Company was twice reconstructed, and its capital increased by the issue of shares and of debentures bearing interest at £10 per cent. per annum ; and in November, 1894, the mine was reopened and supplied with new machinery and plant. From the date of the issue of the debentures up to the date of reopening the Company made no profits, and the Directors paid the interest on the debentures, which amounted to a large sum, out of Capital, but since November, 1894, the debenture interest and all outgoings were paid out of income. The Directors decided to form a Sinking Fund out of profits for the purpose of recouping the amount paid out of capital, and from the profits of the year 1897 proposed to pay a small dividend and carry over the remainder to the credit of the Sinking Fund. Upon motion in an action by a debenture-holder and shareholder, on behalf of himself and all other debenture-holders and shareholders of the Company, for an injunction restraining the Directors from applying any part of the profits in payment of a dividend until the amount paid out of capital for debenture interest

had been replaced, it was held that the company were not bound to apply the profits in replacing debenture interest paid out of capital in previous years before declaring a dividend, and the action was dismissed.—*Bosanquet v. St. John D'El Rey Mining Co., Ltd.*, 103 L.T. 316.

Four Systems of ascertaining Profits.

There are two systems long known to professional Accountants upon which profits can be ascertained, styled respectively the Single Account System and the Double Account System. There have also been added two other systems, both of which have been advanced by lawyers, and both of which, having received the official sanction of the Court of Appeal, must undoubtedly be looked upon as sanctioned by legal authority, but which in the eyes of Accountants are thoroughly unsound. The first system was sanctioned in the case of *Lee v. The Neuchatel Asphalte Co.*, 41 C.D. 1, and the latter in *Verner v. General and Commercial Investment Trust, Limited*, [1894] 2 Ch. 239.

The Single Account System.

By the Single Account System the profit is ascertained more by reference to the Balance Sheet than the Profit and Loss Account or Revenue Account. If the Balance Sheet shows that the amount on the credit side exceeds the amount on the debit side, consisting of the paid-up capital of the shareholders, the debts and other liabilities, and any reserve created compulsorily in accordance with the Articles of Association, or voluntarily by the Directors acting under the powers given them by the Articles of Association, the excess is considered profit, and the theory of this system is that, so long as the capital of the shareholders is kept intact, this excess may be applied to the payment of dividends.

According to this system, the Account representing any wasting property, such as a Patent or a Lease, appears on the credit side of the Balance Sheet, originally at cost price, which Account is gradually reduced in value by charging such a proportion against Profit and Loss Account, and leaving as a balance in the Balance Sheet the amount which is considered to represent the unexhausted portion of the term of the Lease or Patent, or,

what is equivalent to this, the amount remains at its original value on the credit side of the Balance Sheet, while the proportion referred to, after being charged periodically against the Profit and Loss Account, is carried as a Reserve into the debit side of the Balance Sheet. This system received legal authority in *Stringer's Case*, 4 Ch. D. 475 ; Selwyn, L.J., stating that the Company "would have been justified in declaring a dividend, provided they had put a fair, and no more than a fair, value upon the ships and other assets which they actually had. Taking it one step further, and assuming the case that several of the ships had been lost, that the Company was bound to put down, as they did put down, their proportion of that loss as being a loss upon this Balance Sheet, the other two-thirds of the loss were to be covered by the responsibility and guarantee of the Confederate Government, and, according to the view of the learned Vice-Chancellor, inasmuch as until the end of the war the value of that guarantee could not be ascertained, no dividend could be declared. I confess I am unable to agree with that view. I think that under those circumstances the Company was fully justified in putting a value on the ships and on the Confederate Debt—I think the Company was justified in doing that which, in truth, is done in almost every business, viz., taking the facts as they actually stood, and forming an estimate of their Assets as they actually existed, and then drawing a balance so as to ascertain the result in the shape of profit or of loss."

Kindersley, V.C.

In *Helby's Case*, 2 Eq. 175, Kindersley, V.C., said, "The Balance Sheet or summary of account would show, on the one hand, all the assets, and, on the other hand, all the liabilities of the Company, and it was only on this sort of Statement that any safe conclusion could be drawn as to the question whether there had been any profit for the half-year or not, and whether any and what dividend should be declared."

Chitty, J.

In re The Midland Land and Investment Corporation Case, heard before Chitty, J., on the 8th November, 1886, but

which, unfortunately, has never been reported, the learned Judge said, "In declaring a dividend, in my opinion, in trading concerns, the Directors are entitled to put an estimate on the value of their assets from time to time, in order to ascertain whether there is or is not a surplus remaining after providing for liabilities (including, of course, paid-up capital), and where they make those valuations from time to time on a just and fair basis, and take all the precautions which ordinary prudent men of business engaged in a similar business would do, they are entitled to treat the surplus thus ascertained as profit."

Wright, J.

This was the view taken by Wright, J., in a later case. A Balance Sheet had been prepared showing a net profit of £11,493 ; but the Directors, with the approval of the Company's Auditor, caused a supplemental Balance Sheet to be prepared, in which the net profit was increased to £176,493, by transferring £165,000 from the "Suspense" Account to the Profit and Loss Account. At a general meeting of the Company both Balance Sheets were approved, and in the same year the Company went into liquidation.

Ten years afterwards, the creditors having been paid, certain Directors claimed to be paid their shares of ten per cent. of the residue of net profits, in accordance with a clause in the Articles of Association, which was opposed by the Liquidator on the ground that the value of the assets had been largely over-estimated, and that the proposed distribution of the residue could not be made without a dividend being paid out of capital.

It was, however, held that as it was not impossible for reasonable men, at the time when the resolutions of the general meeting were passed, to take the view then taken as to the value of the assets, the claim must be allowed, but without interest.—*In re Peruvian Guano Co., Ex parte Kemp* [1894] 3 Ch. D. 690.

Byrne, J.

In a case tried by Byrne, J., the defendant Company purchased the property and assets of another Company,

which included a debt due to the old Company of 100,000 dollars, secured by the promissory notes of the New York and Bermudez Company. This debt was not regarded or treated as an asset of any value upon the purchase, and it was not specifically mentioned in the Balance Sheets of the defendant Company as an asset. Later on the New York and Bermudez Company gave to the defendant Company new promissory notes for 127,000 dollars, being the amount of the original debt, with interest then accrued due. The 127,000 dollars had been paid off, and the defendant Company proposed to treat the whole of that sum, amounting to £26,258 16s., as profits available for dividend, and to distribute the same accordingly.

Byrne, J., granted an interim injunction restraining the defendant Company from distributing the 100,000 dollars as dividend without reference to the other business or assets of the company; but added that he "must not be understood as determining that this sum, or a portion of it, may not properly be brought into Profit and Loss Account, or be taken into account in ascertaining the amount available for dividend, that appears to me to depend upon the result of the whole Accounts for the year. It is clear, I think, that an appreciation in total value of capital assets, if duly realised by sale or getting in of some portion of such assets, may in a proper case be treated as available for purposes of dividend. This, I think, is involved in the decision in the case of *Lubbock v. British Bank of South America* [1892] 2 Ch. 198, cited with approval by Lord Lindley in *Verner v. General and Commercial Investment Trust* [1894] 2 Ch. 239, 265, where he says: "Moreover, when it is said, and said truly, that dividends are not to be paid out of capital, the word 'capital' means the money subscribed pursuant to the Memorandum of Association, or what is represented by that money. Accretions to that capital may be realised and turned into money, which may be divided amongst the shareholders, as was decided in *Lubbock v. British*

Bank of South America. If I rightly appreciate the full effect of the decision the question of what is profit available for dividend depends upon the result of the whole Accounts, fairly taken for the year—capital, as well as profit and loss—and although dividends may be paid out of earned profits in proper cases, although there has been a depreciation of capital, I do not think that a realised accretion to the estimated value of one item of the capital assets can be deemed to be profit divisible amongst the shareholders without reference to the result of the whole Accounts fairly taken."—*Foster v. New Trinidad Lake Asphalte Co.* [1901] 1 Ch. 208.

Single Account System the ordinary mercantile system.

The Single Account System was, of course, adopted by Companies from it having been the practice for merchants and traders to prepare their Profit and Loss Accounts and Balance Sheets on this system, but there is one great obstacle to its being adopted as a universal method, viz., the difference between the nature of the capital of the partners in private partnerships, and of the capital of shareholders or partners in a joint stock enterprise, the former being fluctuating capital, and the latter a fixed one.

The Double Account System.

In the Double Account System, that which has been acquired by means of the capital of the Shareholders, either as originally or subsequently paid up, and also that which is acquired by means of the capital obtained from debenture-holders, or from loans obtained, whether secured or unsecured, must be treated as capital expenditure, and an account must be kept of this separately. The Revenue Account or Profit and Loss Account must be kept entirely distinct; and the excess of income over expenditure properly chargeable against such income is considered the profit available for dividend.

Burton Buckley, J., in the sixth edition of his work on the Companies Acts, gives the following example of this system: "If a ship-owning Company's capital be represented by ten ships, with which it trades, and one is totally lost and is uninsured, such a loss would be what is here called a loss on capital account. But if the same

Company begins the year with ten ships, value, say, £100,000, and ends the year with the same ten ships, and the result of the trading, after allowing for depreciation of the ships, is a loss of £1,000, this would be what is here called a loss on Revenue Account. Where a loss on Revenue Account has been sustained, there is, of course, no profit until that loss has been made good, either by set-off of previous undivided profits still in hand, or by profit subsequently earned, but, until *Lee v. Neuchatel Asphalte Company*, the question was open whether a Company under the Companies Acts, which has lost part of its capital by loss on capital account, can continue to pay dividends until the lost capital has been made good."

"*Lee v. Neuchatel Asphalte Co.* has now shown the true principle to be that capital account and revenue account are distinct accounts, and that for the purpose of determining profits you must disregard accretion to, or diminution of, capital."

"It is no doubt true that before arriving at revenue at all there are payments which must be made good to capital, on account of capital wasted or lost in earning the revenue. For instance, in the common case of leaseholds, which are a wasting property, the whole of the income will not properly be income. In the case of colliery properties, the difference between the price at which the coal is sold, and the cost of working and raising it will not all be income, for there must be a deduction made in favour of capital, representing the diminished value of the mine, by reason of its containing so many less tons of coal. In the case of a Tramway Company you will not have arrived at net profit before you have set apart a sum to make good deterioration, but when all proper allowances have been made in favour of capital, the balance, it is submitted, is revenue applicable for payment of dividend."

Capital may not be applied for Dividends.

It is now well settled in law that where the Receipts do not exceed the Expenditure, or there happen to be from any cause no annual Receipts at all, the Capital cannot be applied in payment of Dividends upon shares.

That has been determined in many cases, among others in *Flitcroft's Case*, 21 Ch. D. 519; *Guinness v. Land Corporation of Ireland*, 22 Ch. D. 349; and *Verner v. General & Commercial Investment Trust, Limited* [1894] 2 Ch. 239.

The third system of ascertaining profits is the one upon which the Directors of the Neuchatel Asphalte Paving Company prepared their Accounts, and which was approved by the Court of Appeal, affirming the decision of Stirling, J., dismissing an action brought by a shareholder to prevent the Directors declaring a dividend on the ground that, as a large part of the capital had been lost, the loss or depreciation of a concession and assets should first of all be made good. The Third System.

This case has already been referred to, and it is only necessary to say, further, that, according to this system, a Balance Sheet is not necessary for the purpose of arriving at the profits, but it must be borne in mind in deciding upon the profit available for dividend of any Company which appears to be in a position identical with that of the Neuchatel Asphalte Paving Company, that regard must be had to the Memorandum and Articles of Association of each particular Company.

Previous to this case it had usually been considered that where there has been a loss, either in the transactions of a non-trading Company, or in those of a trading Company, that before any future profits could be available for dividend the loss on the previous Revenue or Profit and Loss Accounts must be made good, and such is undoubtedly correct from a professional Accountant's point of view. When, however, there has been a loss, not because the expenditure belonging to any period is more than the Revenue, but because one or more of the Assets upon which the Shareholders' capital has been expended has been depreciated, or even lost, it now appears to be settled law that such need not be replaced out of Revenue. In other words, it appears that the capital of a Company, and the revenues derived therefrom, are to be treated in the same Lost Capital need not be replaced out of Revenue.

manner as have for many years been treated property left in trust by a testator for the income to be paid to persons under his will, with the exception that trading and other Companies are entitled to take credit, not merely for the cash received, but for profits earned during the period, provided the Directors are of opinion that it will ultimately be realised, and that their views, after careful investigation, have been approved by the Auditor.

On this point Stirling, J., stated, "The plaintiff's second point is, that the property of the Company is not now sufficient to make good the Share Capital; that the Assets to provide for that Share Capital must be made up before any dividend can be declared; and that if dividends are declared without that being done that is to be treated as a return, and a division of Capital among the Shareholders, and therefore illegal. In my opinion that is entirely wrong. It is a misapplication of the term 'Return of Capital.'"—*Wilmer v. McNamara & Co., Ltd.* [1895] 2 Ch. 252.

Even where a Tramway Company had, after working its tramways by a certain method involving a large outlay of Capital for the requisite plant, rolling stock, &c., determined to entirely change its method of traction, sell some or all of the old plant and rolling stock at a loss and replace it with new, it was not considered by the Scotch Courts a loss which ought to be replaced before a dividend could be paid.

In giving his judgment in the Court of Session, Edinburgh, Lord Kyllachy made the following remarks:—

"The view I take of the present case is shortly this: It is not at all, in my opinion, a case such as might have presented itself if, for example (the respondents still working the tramways by horse traction), a fire or other catastrophe had occurred by which, say, their horses perished, and their cars were destroyed. In that case there would, of course, have been beyond question a loss of assets in the most real sense, and a loss beyond doubt requiring to be replaced. And that being so, questions,

I think, of some difficulty would or might have occurred as to how far the necessary replacement could properly or justifiably be charged to capital. It does not, however, appear to me that (taking the facts of this case as they appear on the complainer's statement and the minute of admissions) we have here to deal with anything which can be considered as in any real sense a loss or depreciation, actual or prospective, of the respondents' assets. The selling off of their horses and cars is, or will be, a voluntary act on the part of the Company. It is part of a scheme or transaction on which the Company has embarked presumably for the benefit and not for the detriment of their undertaking, and if such scheme or transaction involves, by reason of enforced sale or otherwise, a sacrifice in one direction, such sacrifice will at least presumably be compensated by a corresponding gain in some other direction. I am, I think, entitled to hold that that is the view of the Directors and of the Company. I am also, I think, entitled to hold that they entertain that view on reasonable grounds—grounds, at all events, which are not impeached by the complainer. But if that is so, it is surely a strong suggestion that I should assume without inquiry that the Company, as a going concern, will suffer upon the total transaction a loss equal to the loss on its discarded assets, or, on the other hand, that I should allow a proof as to the effect on the Company's general assets of the proposed conversion from horse to cable traction. I am certainly not prepared to make such an assumption, nor, on the other hand, am I prepared to allow such a proof except upon averments of a quite different kind from those with which I have here to deal. In saying so I do not proceed on any law or doctrine established or said to be established by recent decisions. I proceed on a principle as old as the beginning of Company law—the principle, namely, that in matters of the kind here in question—matters necessarily of estimate and opinion—a Company is presumably the best judge of its own affairs. In such matters the Court will not

readily interfere with the Company's action, and it will not do so at all except on averments which involve practically a case of fraud or dishonesty. The truth is that the complainer's argument involved, as it seemed to me, the assumption that capital sunk—that is to say, capital not represented by tangible and available assets—is in all cases to be considered as capital lost. Of course, if that were so, the question or kind of question would here arise which arose in the two English cases of which we have heard so much ; but such a proposition has never, so far as I know, been as yet at least advanced. The case suggested by Lord Justice Lindley, of expenditure made in starting a newspaper, is a very good illustration of the impracticability of such a doctrine. But, apart from extreme cases, few things are, I should think, more common in ordinary business than operations of the kind with which we are here concerned. A merchant or manufacturer desires to enlarge his premises, satisfied that it will pay him to do so. He accordingly pulls down old buildings which have a certain value, and he replaces them by others at perhaps great cost. There is thus, of course, in a sense, the sacrifice of a permanent asset, and it may quite well happen that the new buildings if put into the market would not fetch a sum equal to the value of the old building, plus the cost of the new. But, for the purposes of the trader's business, the result may be entirely the other way, and the presumption is that the trader is satisfied that it is so. If he is so satisfied, he will certainly not consider that he has sustained a loss of capital, or feel bound to carry the cost of the old building to the debit of his Profit and Loss Account for the year. Similarly a manufacturer requires or resolves to discard certain machinery, and to replace it with other machinery more effective or more economical. Here, again, the sacrifice in the case of the old machinery is simply an item in the cost of the change. So, also, when a Railway Company, as sometimes happen, alters its gauge or substitutes, say, steel for iron rails. The operation

necessarily involves a sacrifice of old material. But the assumption always is that the operation as a whole enhances the value of the concern or undertaking. And although it may be a prudent and proper thing to provide for the recurrence of such expenditure, and to set up a renewal is a question which the trader considers for himself, and one as to which, even in the case of limited Companies, Courts of Law are not accustomed to interfere. On the whole matter I am of opinion that the complainer has stated no relevant case for interfering with the proposed dividend, or for granting him interdict in terms of any part of his prayer."—*Cox v. Edinburgh and District Tramways Company.*

The Fourth System.

The fourth system referred to is the one approved by the Court of Appeal in *Verner v. General & Commercial Investment Trust, Limited*, already referred to.

In finally settling the amount of profit available for dividend the Auditor must be exceedingly careful where the amount is arrived at in any of the three last methods, and should he, after considering the matter, feel any doubt, he should request the Directors to take the opinion of Counsel, the case to be submitted to him by the Solicitors of the Company for approval before being laid before Counsel.

Dividends of Gas and Water Companies.

The dividends of Gas and Water Companies are limited by the private Acts of Parliament under which they are incorporated, or when no rate is prescribed to ten per cent. per annum, but if in any year the profits divisible do not amount to the prescribed rate, such a sum may be taken from the Reserve as, with the actual divisible profits of such year, make up the prescribed dividend. The Reserve referred to is in the case of Gas Companies, formed in accordance with Clause 31 of the Gasworks Clauses Act, 1847 (*see* Chapter III.), and, in the case of Water Companies, formed in accordance with Clause 76 of the Waterworks Clauses Act, 1847 (*see* Chapter III.). The maximum dividend must not be paid free of Income Tax.

Back Dividends

A Gas Company established before 1847 was authorised

of Gas Companies.

by its special Act to pay dividends limited to 10 per cent., and when that sum was reached, if there was a surplus, the price of gas was to be reduced; there was also a provision for a Reserve or Contingent Fund, to be limited to £5,000; afterwards the dividends and interest thereon were to be no longer invested, but applied to any of the general purposes of the undertaking to which the profits of the Company were applicable. By another section of the Act it was enacted that if in any year after the passing of the Act the profit should not amount to 10 per cent. per annum on the amount paid on the shares (whether such deficiency should have occurred before or subsequent to the formation of the contingent fund), such a sum might be taken from the contingent fund as, with the actual divisible profits of such year, would enable the Company to make a dividend of 10 per cent. per annum.

The Company sought to apply a sum of £3,990, the amount raised of the contingent fund, to the payment of back dividends of past years. It was held that as long as the Company paid 10 per cent. they could not touch the contingent fund, and that they were not entitled in any one year to divide more than 10 per cent., whether from profits or contingent fund, and were not entitled to apply the fund in making up the dividends of past years to 10 per cent.—*Chamberlain v. New Worcester Gaslight Co.*, "Journal of Gas Lighting," 8th June, 1875.

Arrears of Dividend.

By an Act of Parliament it was enacted that it should be lawful for any shareholder who should have paid up one-half the amount of any share or shares of the G.N.R. Co. to require each share to be converted into two half-shares, whereof the one half which should be so fully paid up should be denominated "guaranteed" half-share, and thenceforth in respect of each whole share so divided the whole of the interest and dividends which would in each year have accrued, should be applied in or towards payment, in the first place, of interest or dividend after the rate of £6 per cent. per annum on the amount paid up on the half-share so denominated "guaranteed," and the

remainder, if any, should alone be payable to the half-share so denominated "deferred," provided that the Company should not pay any other or greater amount of interest or dividend upon the two half-shares than was for the time being paid on each undivided share. It was held, upon the construction of this section, that the holders of guaranteed half-shares were entitled to be paid their £6 per cent. in each year, not only out of the dividends accruing in that year, but out of all subsequent dividends; and, therefore, if in any year the dividends were more than sufficient to pay £6 per cent. on the guaranteed half-shares, the surplus must be applied in payment, in the first place, of all arrears due on those half-shares in respect of past deficiencies before any dividend could be declared on the deferred half-shares.—*Matthews v. Great Northern Railway Co.* [28 L.J.] Ch. 375.

Income on Yearly and Half-yearly Bonds.

Where by agreement between a Company and the Local Government, second mortgage Bonds were to be issued with the interest (non-cumulative) dependent on the yearly earnings, then, by a law passed to give effect thereto, the bonds were treated as half-yearly bonds with interest contingent on half-yearly profits; then bonds were issued in terms of the agreement and not the law; and then, by a Certificate of the Local Government, the bonds were erroneously certified to be according to the law, it was held, in a suit by the holders of the said bonds to expunge certain items debited against the half-year's income, to the prejudice of the claim for half-yearly interest, that, reading the agreement and the law together, the intention was that the Account should be taken at the end of each year, and not upon the footing that there was to be a rest at the end of every half-year; also that the costs of issuing the bonds could not be charged against income to the prejudice of their holders; and that, with regard to the expenditure on stores, the amount chargeable to any one year must be regulated by what is fair in the interest of all concerned.—*Jamaica Railway Co. v. Attorney-General of Jamaica* [1893] A.C. 127.

Differences in method of declaring Dividends.

Where the Articles of Association of a Company made no provision for the payment of Dividends other than this: "The Directors may . . . . . declare and divide an interim dividend out of the profits . . . . . and pay the same to the members in proportion to the capital held by each," and when the Directors were further empowered to receive advances from any member of any sums due upon the shares held by him beyond what was actually called up, and to pay interest "in lieu of dividends" thereon, and "capital" was not defined in the Articles, it was held that the dividends fell to be apportioned according to the amount of the paid-up capital of each shareholder.—*Hoggan v. Tharsis Sulphur & Copper Co.*, 9 C of S. Cas. 1191 (Sc.).

Where the Articles of Association provided that the Directors may "declare a dividend to be paid to the members in proportion to their shares," and by the definition clauses the word "capital" was declared to mean the capital for the time being of the Company, and the word "shares" the shares into which the capital is divided, it was held that all the shares were entitled to participate equally in dividend, without regard to the amount paid up upon each.—*Oakbank Oil Co. v. Crum*, 8 A.C. 65.

The value of the gas supplied by a Local Authority for public lighting was held not to be "profit" within the meaning of a Statute which limited the amount of profit that they might make from this Gas undertaking.—*Chadderton and other Local Boards v. Oldham Corporation*, "Local Gov. Chron.," 16th January, 1892, p. 48.

Profit on Insurance.

Should buildings be destroyed by fire and the Company receive from the Insurance Co. a sum which is in excess of the cost of rebuilding the premises destroyed, the surplus is not a profit which can be used for purposes of dividend.

On Cancelled Debentures.

The profit made through debenture-holders cancelling their debentures, and accepting a lower sum than the amount they originally lent to the Company, would be a profit available for dividend. In the same way, should the depositors of a banking or other Company agree to accept a lower sum in consideration of their being paid off, the

Auditor could not object to the Directors treating the balance as profit.

Realised Profits.

Where the Articles of Association of a Limited Company provided that no dividends should be payable except out of "realised profits," it was held that "realised profits" must be taken in its ordinary commercial sense, as meaning at least the profits tangible for the purpose of division, and that the Directors, having treated estimated profits as realised profits, and having in fact paid dividends out of capital, on the chance that sufficient profits might be made, were held generally and severally liable.—*In re Oxford Benefit Building and Investment Society*, 35 Ch. D. 502.

Founders' Shares and Reserve.

In another case the Memorandum of Association provided that "As between the holders of the ordinary shares and the holders of the founders' shares the profits from time to time available for dividend shall be applicable as follows: (1) To the payment of a non-cumulative preferential dividend of 15 per cent. per annum on the capital paid up on the shares other than the founders' shares. (2) Of the surplus, two-thirds shall be applicable to the payment of a further dividend on the capital paid up on the shares other than the founders' shares, and the remaining third shall be applicable to the payment of dividend on the founders' shares rateably. The Articles of Association provided that, so far as they do not exclude or modify the regulations contained in 'Table A,' the last-mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the Company." Clauses 11 and 12 contained provisions in substance equivalent to those of Paragraphs 1 and 2 of Clause 5 of the Memorandum. By Clauses 44 and 50 of the Articles some specified clauses of Table A were expressly excluded, but Clause 74 of Table A was not expressly excluded.

The Accounts for the year ending the 31st July, 1900, showed a profit (after deducting an *interim* dividend of two and a-half per cent. on the ordinary shares which had been already paid) amounting to £13,225 11s. 4d. Out of this sum the Directors by their Report proposed to

pay a dividend of twelve and a-half per cent. on the ordinary shares, amounting to £5,721 17s. 4d., to carry £7,000 to a Reserve Fund, and to carry over £503 14s., thus paying no dividend to the holders of founders' shares.

The Court of Appeal held that Clause 74 of Table A was not *in toto* excluded by implication, and that "profits available for dividend" meant the net profits after making any deductions which the Directors could properly make before declaring a dividend, and that the Directors were justified, after paying a dividend of 15 per cent. to the ordinary shareholders, in setting aside as a Reserve Fund to meet contingencies so much of the surplus of the profits of a year as they thought fit.—*Fisher v. Black & White Publishing Co.* [1901] 1 Ch. 174.

There can be no doubt that, for the purpose of the preservation of the shareholders' capital, that the Single Account system, or the first of the systems referred to in this chapter, is preferable, and for many years the Accounts of Companies registered under the Act of 1862 were always prepared on this system. Upon which, however, of the systems the Accounts are prepared, if the Auditor believes them to be prepared not only strictly in accordance with fact, but also in accordance with one of the legal views referred to, it is unlikely that for certifying them he would be held liable.

Auditor's Duty.

"It is nothing to him" (*i.e.* the Auditor) "whether dividends are properly or improperly declared, provided he discharges his own duty to the shareholders. His business is to ascertain and state the true financial position of the Company at the time of the audit, and his duty is confined to that."—*In re London and General Bank* (No. 2) [1895] 2 Ch. D. 682.

CHAPTER XIV.

FURTHER REMARKS ON THE DUTIES AND RESPONSIBILITIES OF AUDITORS.

Auditors should be trained for their duties—Fallacy of insisting on a Share Qualification—Liability of Auditor for assenting to improper payment of dividends—Definition of Auditor's Duties by Court of Appeal—Liability of Auditor for Calls in winding up—Auditor should be able to suggest improvements in mode of keeping the books—An efficient audit should embrace all the transactions of the Company—Auditor may rely on the opinion of an Expert—Necessity for providing against bad debts—Inspection of the securities—Audit of a Company having branches—Power of Auditor to employ a professional Accountant—Directors of a Company, and not the Auditor, are its Managers.

Auditors should be trained for their Duties.

It must be evident, after a careful perusal of the foregoing pages, that the duties of an Auditor are not only grave and responsible, but especially so when acting for a Public Company or Society registered under an Act of Parliament, as guarding the interests of a number of shareholders or members who rely on his ability and honesty. In order to fulfil these duties properly he requires, beyond the possession of these necessary qualifications, a perfect knowledge of book-keeping and Accounts, also an acquaintance with business matters generally, which can only be possessed by those whose training have been directed to this especial object.

For many years, however, the absence of these qualifications was, strange to say, not considered an objection by a meeting of shareholders, when making an election to the important appointment of Auditor of their Company's Accounts.

Fallacy of electing a Candidate because he is a Shareholder.

One of the most absurd qualifications, and yet the one most frequently put forward by a candidate, used to be the fact of his being a shareholder, and for this reason alone most incompetent persons were frequently, and occasionally still are, selected to fufil the office.

Assuming that those thus elected perform their duties with their utmost care and diligence, and to the best of their ability, what will that avail them when they have to deal with Statements of Accounts wilfully and fraudulently misrepresented? They are amateurs pitted against professionals, the book-keeper and manager being from the nature of their occupation the latter, while Auditors of the above description must most certainly be classed among amateurs.

To insist on each Director holding a minimum stake in a Company is undoubtedly a wise provision, but to make it a *sine quâ non* for an Auditor to be a shareholder is certainly a mistake.

It is true that the possession of an interest in the Company is an incentive to him to look carefully into its Accounts; but, as just shown, his ability may not be equal to allowing him to carry out his intentions, and, moreover, it does not follow that he will use any knowledge gained during his investigation for the benefit of his co-partners.

An Auditor if a large Shareholder may fail in his duties through selfish motives.

For example, an Auditor having a very large interest in a Company whose Accounts, as presented to him for confirmation, show its affairs to be in a very satisfactory condition, but which on close examination into the books he finds is not the case, and that the Accounts have evidently been prepared with the intention of causing the shareholders to believe their property to be so far more valuable than it really is, that he knows it is his duty to refuse to certify the Accounts, may fail in his duty through selfish motives.

He knows that in the event of his refusing to sign the Accounts as they are presented to him, in consequence of which they would be altered to show an honest statement of the Company's affairs, the market price of the shares will fall and his own holding be thus depreciated. If, on the other hand, he certifies the Accounts as placed before him, the market price of the shares may be kept up or even rise, and he may then realise those standing in

his name, with the exception of his qualification. He knows that in the event of the failure of the Company he will not be severely blamed, he will at once plead that he did his best, and that the shareholders knew he was not a professional Auditor.

Auditor held liable for assenting to payment of dividends out of Capital.

In 1887 an Auditor was, for the first time under the Companies Act, 1862, made a defendant to an action to hold him liable for breach of duty in making payment of dividends out of capital, and it was held by Stirling, J., that it is the duty of an Auditor of a Company's Accounts not to confine himself to verifying the arithmetical accuracy of the Balance Sheet, but to inquire into its substantial accuracy, and to ascertain that it contains the particulars specified in the Articles of Association and properly drawn up so as to contain a true and correct representation of the state of the Company's affairs, also that as, in this particular matter, improper payments by Directors was the natural and immediate consequence of breach of duty on the part of the Auditor, he was liable in damages to the amount so paid, except so much thereof as was covered by the Statute of Limitations.—*Leeds Estate Building and Investment Company v. Shepherd*, 36 Ch. D. 787.

An Auditor was first made liable in 1864 for dividends paid away without the same having been legitimately earned, as already referred to in Chapter IX., but this was under a former Act. Since the *Leeds, &c., Co. v. Shepherd* Auditors have been held liable for dividends declared to have been improperly paid out of capital under the Companies (Winding-up) Act, 1890, and in the leading case under this Statute the following remarks were made in the judgment of the Court of Appeal :—

Definition of Auditor's Duties by Court of Appeal.

"His (the Auditor's) business is to ascertain and state the true financial position of the Company at the time of the audit, and his duty is confined to that. But then comes the question : How is he to ascertain that position ? The answer is : By examining the Books of the Company. But he does not discharge his duty by doing this without inquiry, and without taking any trouble to see that the

Books themselves show the Company's true position. He must take reasonable care to ascertain that they do so. Unless he does this his audit would be worse than an idle farce. Assuming the Books to be so kept as to show the true position of a Company, the Auditor has to frame a Balance Sheet showing that position according to the Books, and to certify that the Balance Sheet presented is correct in that sense. But his first duty is to examine the Books, not merely for the purpose of ascertaining what they do show, but also for the purpose of satisfying himself that they show the true financial position of the Company." —*In re London and General Bank* (No. 2) [1895] 2 Ch. 683.

The following is an example of the method adopted by dishonest Officials to deceive their employers and Auditors :—

Sudbury Savings Bank Case.

In the Report of the Commissioner appointed 23rd November, 1893, under the Trustee Savings Banks Act, 1887, to inquire into the defalcations committed by the Manager of the Sudbury Trustee Savings Bank, he states that the Manager adopted four separate methods.

In the case of withdrawals :

(1.) By inserting in the Cash Book a fictitious withdrawal entry to an account from which no withdrawal was made by the depositor.

(2.) By falsifying in the Cash Book the amount of a genuine withdrawal by the alteration or addition of a figure.

In the case of deposits :

(3.) By making no entry in the Cash Book of the amount deposited ; and

(4.) By entering in the Cash Book a smaller sum than that actually deposited.

Auditors can, of course, be held criminally liable under the Larceny Act, 1861, or the Companies Act, 1900, for wilfully making false statements in a Balance Sheet, Certificate or Report, and under Section 221 of the Criminal Code, 1872, of the Isle of Man, which is

practically to the same effect, the three Auditors of Dumbell's Banking Co., Limited, which failed on the 3rd February, 1900, were, on the 19th November following, sentenced to hard labour on conviction of having been parties to the publishing of false Balance Sheets.

Liability of Auditor in winding up.

An Auditor is presumed to have knowledge of what is contained in the books of the Company, and cannot plead ignorance of entries or of omission of entries in the books affecting himself in order to escape liability in a winding up. In 1865 the Secretary of the Company arranged with W. that some work connected with some buildings to be erected by the Company should be done by W., and that W. should be paid as to 20 per cent. in paid-up shares, and the balance in cash. On a rough estimate this would have given W. thirty £10 shares, and these were put down to his name in the books of the Company. In 1866 W. was appointed Auditor, and he audited the books of the Company in 1867 and 1868. In 1867 W. received a call-note, but this was withdrawn, and the Company acknowledged that it was a mistake, and that the shares were taken contingently on the above arrangement being carried into effect. No work was ever done by W. for the Company. In 1869 W. refused to audit the Accounts, being dissatisfied with them; and at that time, at his request, the Solicitor of the Company purported to cancel the allotment to him. In 1869 the Company was ordered to be wound up. On a summons by the Official Liquidator to have W.'s name put on the list of contributories, it was held that W., as Auditor, must be taken to have known who were the shareholders, and that he was one; and that, whatever might have been his rights as against the Company before the winding up, it was clear that now, and as against creditors, his name must be placed upon the list. —*In re The Matlock Old Bath Hydropathic Co., Ltd., Wheatcroft's Case*, 29 L.T. 324.

It may, however, be considered open to doubt whether the Court would now uphold this decision. In a later case

Bacon, V.C., in giving his decision, said: "The tendency of the more recent decisions is, that in order to impute to a man a contract to take shares something like a contract must be established." The Court of Appeal confirmed the decision, Brown, L.J., stating: "It seems to me in general extremely objectionable to imply that a man had knowledge of facts contrary to the real truth. This ought only to be done where there is some duty on the part of the man to inform himself of the facts."—*In re Wincham Shipbuilding, Boiler and Salt Company, Hallmark's Case*, 9 Ch. D. 329.

Auditor should be able to suggest Improvements in book-keeping if necessary.

An Auditor should be able not only to check and verify the Accounts placed before him, but also, if he find the books are kept in a careless manner or on a bad system, be able to suggest a better method, the adoption of which might not only save expense but also ensure greater accuracy in recording the transactions of the Company.

The Accounts of many Companies are over-burdened with unnecessary detail, a large number of subsidiary books being employed, which might be concentrated in a fewer number, or, perhaps, even be dispensed with altogether. It is, however, "no part of an Auditor's duty to give advice, either to Directors or Shareholders, as to what they ought to do."—*In re London and General Bank* (No. 2) [1895] 2 Ch. 682.

An efficient Audit should embrace the Examination of all Transactions.

A thorough and efficient audit should embrace an examination of all the transactions of a Company, and an Auditor acting on this principle would ascertain that all had been duly entered and discharged. A purchase made, a sale effected, or any matter of business transacted, and once entered in one of the subsidiary books, becomes part of a system, with which it is so incorporated that it cannot be omitted, overlooked, or cancelled without so disarranging the organisation that an efficient Auditor would at once detect either the carelessness or the fraud.

An Auditor "is perfectly justified in acting upon the opinion of an expert where special knowledge is required." —*In re London and General Bank* (No. 2) [1895] 2 Ch.

683. "It would be no part of their (the Auditors') office to inquire into the validity of any transaction appearing in the Accounts of the Company."—*Spackman v. Evans*, 3 H.L. 236.

"The duties of Auditors must not be rendered too onerous. Their work is responsible and laborious, and the remuneration moderate. I should be sorry to see the liability of Auditors extended any further than in *In re London and General Bank*. Indeed, I only assented to that decision on account of the inconsistency of the statement made to the Directors with the Balance Sheet certified by the Auditors and presented to the shareholders. This satisfied my mind that the Auditors deliberately concealed that from the shareholders which they had communicated to the Directors. It would be difficult to say this was not a breach of duty. Auditors must not be made liable for not tracking out ingenious and carefully-laid schemes of fraud when there is nothing to arouse their suspicion, and when those frauds are perpetrated by tried servants of the Company, and are undetected for years by the Directors. So to hold would make the position of an Auditor intolerable."—*In re Kingston Cotton Mill Co.* (No. 2) [1896] 2 Ch. 290. Lopes, L.J.

A note should be taken by the Auditor of the age of the balances at the debit of the personal Accounts in the Ledgers, and he should inquire the reason why those of long standing have not been either settled or reduced in amount.

It is very important that due provision be made periodically for bad and doubtful debts, otherwise there will appear on the credit side in successive Balance Sheets an increasing amount due from the debtors of the Company, which will ultimately attract the attention of the shareholders. On inquiry being made and the true value of these outstanding Accounts ascertained, it may be found on writing down this balance to its value that the difference absorbs part or the whole of the net profits Necessary for Providing for Bad Debts.

taken credit for in the period under audit, and, consequently, no dividend can be declared.

When the Auditor, after discussion with the Manager or Secretary of a Company, is not satisfied that a sufficient amount has been allowed for probable loss on realisation of debts, he should, in the interests of the shareholders, bring his views before the Directors, so as to fix them with responsibility in the event of their also disagreeing with his views, as it has been held that the Directors of a Banking Company were not liable to the Company for including in their Accounts as good debts which were, in fact, bad, unless they could be fixed with knowledge of the fact.—*Turquand v. Marshall*, 4 Ch. 376.

Nothing is more distasteful to shareholders than to find, after regularly receiving good dividends, they must be either reduced in amount or discontinued, because, not having been legitimately earned, they have been paid to them out of their own capital.

This is, however, continually occurring, sometimes through the discovery of amounts having been added to the Capital Account which ought to have been charged against Revenue, sometimes through due provision not having been made for bad and doubtful debts, and frequently through a sufficient amount not having been periodically charged against the Revenue Account for depreciation in the value of plant, machinery, stock-in-trade, &c., or for the exhaustion of a lease.

Inspection of the Securities.

Having completed his investigation of the Accounts, and being satisfied as to their correctness, so far as figures are concerned, the Auditor should then inspect the securities representing the assets, and ascertain that they are in the possession of the Company free and unencumbered by mortgages or any charges, unless the fact of their being so charged is clearly stated in the Accounts.

In order that this may be done in a business-like and methodical manner, the Auditor should have prepared for him a list of the securities, arranged under the

headings in which they appear in the Balance Sheet. The full particulars of each security should be given, with its value as taken credit for in that document.

The Auditor must be careful that the securities deposited by those to whom the Company has made advances are accompanied by the necessary bonds, undertaking to repay either on demand, or on the expiration of a stipulated period, the sums advanced, with the interest thereon, also undertaking to deposit fresh securities with the Company in the event of the market price of those in its possession being unduly depreciated during the continuance of the loan. He should also see that the unpaid coupons are attached to all certificates payable to bearer.

All the Securities should be tabled at the same time.

When the same class of security has been deposited with a Company by more than one borrower, the Auditor must be careful that the documents which he has inspected as being held against a loan are not reproduced to him as the security deposited by another borrower.

In order to effect this, all the securities should be placed in the possession of the Auditor at the same time, and by his retaining the keys of the safes, or in some other way, the securities should remain under his control from the commencement of his inspection until its conclusion.

The examination of the securities should take place on the day after the financial period under audit has expired, or as near thereto as is convenient to the officials of the Company and the Auditor, otherwise the labour of the latter is liable to be increased by a change in some of the securities or the payment off of the loans against which they were held.

In the case of Consols and stocks transferable at the Bank of England, for which certificates of ownership cannot be produced, a form can be obtained upon application to the Chief Accountant of the Bank of England, which has to be filled up with the names of the stockholders, the amounts, and the names of the stocks at the close of business on the date of the Balance Sheet. On the form is a request that this information may be verified and the

Statement forwarded to the Auditor at his address, which should be signed by the Secretary of the Company or Society, and there is also an authorisation of the application, which has to be signed by a stockholder in each account, or in the case of a Corporation by the Chairman, Secretary, or other Officer.

In the case of stock registered in the books of other Bankers, a letter should be addressed to the Bankers requesting them to give the same information to the Auditor direct.

Inspection of Mortgage Securities.

When a Company has made advances upon first mortgages, the securities are represented by the title deeds of the properties, and these should be inspected by the Auditor. In the case of large Building Societies, these number many thousands. The Building Societies Act, 1894, requires that the Auditor shall certify that he has inspected these mortgage deeds, and in every Company he should satisfy himself that these mortgages are actually in the possession of the Company, and, moreover, unless the fact is actually disclosed by the Accounts, that there is no charge or lien upon them.

The duties of an Auditor with relation to the inspection of securities are perfectly well understood, although not prescribed by law. Many persons go so far as to say that, not only has the Auditor to inspect the deeds, but to satisfy himself in each case that the loan is fully covered by the security. But this is perfectly impossible for an Auditor, for, however desirable it may be for the members of a Company or Society to know that this has been done, the carrying it into practice would involve an enormous expense. To carry out the views of some of those who have lately criticised their duties, an Auditor must be either at liberty to employ a Solicitor and a Valuer, or else he must possess himself the qualifications and experiences of three professions.

Impossible for Auditor to certify Mortgages fully secured.

In the first place, the mortgage deeds when produced to him would have to be examined one by one to ascertain that the title is good, and that the property when first of

all lent upon was of the value of the advance, and that at the date of the Auditor's examination it had not depreciated in value, or at any rate not below the value which, after giving credit for the instalments already paid, left the Company or Society still secured. Conceive what this would mean, not only where the securities are many thousands in number, but where there are only two or three hundred. It requires very little reflection to see that the time this operation would take, even supposing the Auditor were competent to do it by himself, precludes its possibility, and were he to call in the two experts, the Solicitor and the Surveyor, already referred to, the members would, undoubtedly, object to the fees, and consider the remedy worse than the disease.

The duty of the Auditor in this respect is confined, therefore, to his satisfying himself, firstly, that proper care has been exercised by the Directors and officials in ascertaining that the securities were full securities when the advances were made ; secondly, that the securities are still in possession of the Company or Society ; and, thirdly, that they have not unduly depreciated, or, if they have, that a proper reserve has been made.

"The Balance Sheet of a Company engaged in a hazardous trade will not be considered delusive and fraudulent merely because an estimated value was put upon assets of the Company which were then in jeopardy, and were subsequently lost, or because the Company was obliged to borrow money to pay the dividend, provided the facts fairly appeared in the Balance Sheet, and the balance fairly represented profits."—*In re Mercantile Trading Co., Stringer's Case*, 4 C.A. 475.

Method of examination of Mortgage Deeds.

The following method of examination of mortgage securities appears to cover the Auditor's duty to the fullest extent :—

As regards the mortgage deeds held by the Company or Society to cover advances, a Register containing the particulars of each advance should be placed before the Auditor. Each advance should have a number, and a corresponding

number should be placed on the conveyance to the Company or Society. A schedule of all the title deeds should be set out, also the amount of the advance, the period for which it is made, followed by several columns, the first one giving the heading for the year in which the advance is made. In the column opposite each advance the Auditor should place his initials, and the same process would be repeated in following years.

The boxes containing the deeds should be opened in the presence of the Auditor, not more than one box being opened at the same time. As a rule, these boxes are kept in the strong rooms of the Company's or Society's Bankers, and can only be opened by at least two different keys, held by two of the trustees. Occasionally, a third key of a different lock is held by the Secretary. Each box, as opened, should be emptied, and the deeds, as checked, should be replaced in the box. The boxes should then be re-locked, in the presence of the Auditor, and the keys handed back to the Trustees or their representatives. Each security should bear a distinct number, which should correspond with the Register of Deeds, and the number of this register should be placed against the name of each debtor in the schedule with which the Auditor is checking the deeds as produced. As the deeds should only be able to be taken out in the presence of the Trustees or their representatives, the Auditor can, in the case of those deeds which have previously been submitted to him, satisfy himself that they are the same which were shown to him on a former occasion, by means of his own private mark placed against the numbers of the deeds. As regards the deeds held for advances made since the date up to which the previous Accounts were audited, and the date of closing of the books, that is to say, made during the period embraced by the audit, they should be carefully examined by the Auditor, and the actual conveyances executed by the borrower to the Company or Society should be opened. From each of these the Auditor will obtain the amount of the advance and observe the due execution by the borrower.

The conveyance should be numbered; and against the number he should put his private mark or stamp, and the deed should then be placed in a parcel with the other title deeds of the property and deposited in the box. It is certainly not within the province of the Auditor to attempt to investigate, even if he be sufficient lawyer to do so, the title deeds themselves.

A still better plan is for the Auditor to affix his private seal outside a package containing all the deeds of each security. The production of the packages with the seals unbroken would be an absolute proof of their not having been tampered with. In those cases where the deeds had been required for reference or for some other purpose they would be carefully re-examined by the Auditor, made into a parcel, and be re-sealed by him.

Deeds in hands of Solicitors.

It may happen that some deeds are missing, the reason being that they are in the hands of the Solicitor for some purpose. A note should be taken of these, and before the Auditor ultimately signs the Accounts he should require their production. Occasionally, a further advance is made by a Company or Society upon the same title deeds ; this is either secured by a separate document or by an endorsement on the original conveyance, but in either case the actual conveyance or endorsement, with the execution by the borrower, should be produced to the Auditor.

The title deeds representing the freehold and leasehold investments of the Company or Society, if any, should be inspected by the Auditor in the same manner ; that is to say, either his private mark against the conveyances he has previously seen should be shown to him, or, in the case of a fresh purchase, the actual conveyance to the Trustees should be inspected. Should any of these investments consist of house property, the Auditor should satisfy himself that they are insured for the full amount, and should have produced to him the last receipt for the premium paid to the Fire Insurance Company.

Debentures when paid off are of course surrendered,

and the Auditor should require to have them produced to him at the following audit and have them either destroyed or cancelled in his presence. All coupons attached to the Debentures at date of redemption should be produced to the Auditor, and destroyed or cancelled in a similar way.

Patents.

When a Company holds "Patents," a list should be prepared for the Auditor containing their description, registered number, date, and number of years to run, so that he may form an opinion as to whether a sufficient amount has been written off for depreciation, and the Patents must be produced to him for inspection.

Audit of a Company having Branches.

When a Company has branches in the country or abroad it is, of course, impossible for the Auditor to make such a thorough investigation of its affairs as it is his duty to do when all the records of the business are kept in one office. The principal books are open to his inspection, and he should critically examine the returns from the branches, and ascertain they are properly amalgamated with the books kept at the head office. The Companies Act, 1879, enacts that, if a Banking Company has branch banks beyond the limits of Europe, it is sufficient if the Auditor is allowed access to such copies of and extracts from the books and Accounts of any such branch as may have been transmitted to the head office in the United Kingdom.

It is very important that, where another person's figures are taken as correct, the Auditor should require him to give a certificate of their correctness, and he should only sign the Accounts which are to be laid before the shareholders subject to such certificate. It is then, of course, at the discretion of the shareholders whether they shall be content with this partial audit, or whether they shall instruct their Auditor to visit all or some of the branches for the purpose of verifying the correctness of the returns.

Power to employ Professional Accountants.

Section 93 of Table A, and Section 108 of the Companies Clauses Consolidation Act, 1845, authorises an Auditor to employ Accountants, at the expense of the Company, to assist him in investigating the Accounts, and a similar

clause is usually inserted in the Articles of Association of Companies when they do not enact that the Auditors are to be Chartered Accountants.

Non-professional Auditors should take advantage of this clause when they have any doubts as to their capabilities of thoroughly investigating the Accounts, and it was decided that an Auditor appointed under the Companies Clauses Act, 1845, is entitled to appoint an Accountant under Section 108, even without the consent of his co-Auditor.—*Steele v. The Sutton Gas Co.*, 12 Q.B.D. 68.

Case of *Steele v. The Sutton Gas Company.*

In this case the plaintiff and another had been appointed Auditors of the Accounts of the defendant Company, whose special Act incorporated the provisions of the Companies Clauses Act, 1845. The plaintiff thought it necessary for the purposes of the audit of certain Accounts of the Company to have the services of an Accountant, and he had accordingly employed a Fellow of the Institute of Chartered Accountants, and paid him for his services the sum of fifteen guineas, which he sought to recover from the defendant Company. The plaintiff's co-Auditor refused to join in the appointment of the Accountant. The County Court Judge having given judgment for the plaintiff, a rule *nisi* was obtained to set aside his judgment and for a new trial, or to enter judgment for the defendants.

Plaintiff's Argument.

The plaintiff's counsel submitted it was the duty of each Auditor to examine the Accounts independently of the other, and to make separate reports if they took different views, and that it was a reasonable construction that if either of the Auditors should find it necessary to employ an Accountant for the purpose of making a satisfactory report on the Accounts he should have power to do so.

Decision of the Court.

In giving judgment in favour of the plaintiff, Huddleston, B., said: "I think this rule must be discharged. The words of the Act may *primâ facie* bear the construction sought to be put upon them by the defendants' counsel, but on consideration I come to the conclusion that that construction is incorrect. By the 106th Section the

Directors are to deliver to the Auditors the half-yearly or other periodical Accounts and Balance Sheet fourteen days before the Ordinary Meeting at which the same are required to be produced; and by Section 107 it is the duty of the Auditors to receive and examine the same. By Section 108 it is provided that 'it shall be lawful for the Auditors to employ such Accountants or other persons as they may think proper at the expense of the Company, and they shall either make a special report on the said Accounts or simply confirm the same.' It is obvious to anyone having experience of such matters that occasions occur when an Auditor must exercise a separate independent judgment. One Auditor may take a different view of the Accounts from that of his fellow Auditor. One may think that no assistance is needed; the other may be of opinion that there are items or matters which he cannot undertake to deal with without assistance from an Accountant. Each Auditor, as it seems to me, may make a special report if they differ; and it therefore appears to me the reasonable construction that, for the purpose of enabling him to make his report, he should be entitled to have such assistance from an Accountant as he requires. For these reasons I agree with the construction of the section suggested by the plaintiff's counsel."

Stephen, J. agreed with the decision, and leave to appeal was refused.

Case of *Holgate* v. *Shutt* as to opening of audited Accounts.

By the rules of a Benefit Society it was provided that the Accounts should be audited, and that after they had been audited and signed by the Auditors, the Secretary and Treasurer should not be answerable for any mistakes, omissions, or errors that might afterwards be proved in them. An Action for an Account was commenced by two shareholders, on behalf of themselves and all other the shareholders, against the Secretary. No pleadings were delivered, and, on a motion for a Receiver being made, the defendant submitted to an Order for an account of all moneys and property of the Society come to his hands without any direction as to settled Accounts.

The defendant carried in a complete account, and the plaintiffs carried in a surcharge. The defendant then set up certain Accounts, which had been audited under the rules, as vouching his Account for the period over which they extended.

The point was brought before the Judge, who was stated to have expressed his opinion that the audited Accounts must be treated as conclusive. The plaintiffs then applied for a direction that in taking the Accounts the audited Accounts might be disregarded, on the ground that as the Order did not save the settled Accounts, they could not be attended to.

The application was refused, and the plaintiffs appealed.

Decision of the Court of Appeal.

The Court, consisting of Baggallay, Cotton, and Lindley, L.J., decided that the audited Accounts ought not to be disregarded, and that the appeal must be dismissed ; but the dismissal was prefaced by a statement of the opinion of the Court, that the plaintiffs, in taking the Accounts under the Order, were at liberty to impeach the audited Accounts for fraud.—*Holgate v. Shutt*, 27 Ch. D. 111.

On the examination of the audited Accounts, it appeared they had throughout been audited and signed by one person only, who was not a member of the Society. Bacon, V.C., made an Order, expressing his opinion that the Accounts had been audited in accordance with the rules, but his Order was discharged by the Court of Appeal, who held the Accounts had not been duly audited in accordance with the Statute and the Rules, but the Order was discharged without prejudice to the right of the defendant to show that the Accounts in question were to be treated as settled Accounts on any other ground than that they were audited in accordance with the Statute and the Rules.—*Holgate v. Shutt*, 28 Ch. D. 111.

Auditor has many opportunities of suggesting improvements in

It is, fortunately, not often an Auditor comes into conflict with the Directors of a Company or Society. Both they and he have, as a rule, the same interests at heart, namely, the prosperity and welfare of the

Administration.

Company, and in his capacity as an ally and assistant of the Directors in all matters concerning the welfare of the shareholders, an Auditor has many opportunities of pointing out to them various improvements which might with advantage be adopted, not only in the book-keeping department, but also in the general routine work of the office.

As already stated, in many Companies, more especially in large ones, the amount of detail passed and repassed through the books is wholly unnecessary, and an efficient Auditor has many opportunities of suggesting alterations which would, if adopted, greatly lessen labour, and, consequently expense.

But has not any right to insist on their being adopted.

It is very important that, in his anxiety to do his duty towards the shareholders, the Auditor should be careful not to interfere in the management of the Company by insisting on the adoption of any of his propositions as to the system of book-keeping, the interior economy of the office, or in any other matter. He should endeavour to introduce his reforms by friendly suggestions, and by putting them forward gradually.

Directors are Managers of the Company.

The Directors are the Managers of the Company on behalf of the shareholders, to whom they are alone responsible, and the strict duty of the Auditor is to ascertain that the Accounts, as presented to the latter, show accurately the result of this management. It is by performing this duty conscientiously and efficiently he can best discharge his obligation to those who have elected him to his responsible position.

CHAPTER XV.

THE AUDITOR'S CERTIFICATE AND REPORT.

Certificate required by Companies Act, 1900, prior to Statutory Meeting of New Companies—Report and Certificate affixed to Balance Sheet the conclusion of Auditor's Duties—Simple Form of Certificate—Certificate suitable to Companies Act, 1862—To Companies Act, 1879—Interpretation of "As shewn by the Books"—Report in addition to Certificate—Certificates Putting Shareholders on Inquiry — Danger of such Certificates—Misfeasance—Report prescribed by Companies Act, 1900—Auditor's Position when Accounts Incorrect—Auditor's Certificate Privileged—Certificate of Auditor of Railway Companies—Of Building Societies—Of Savings Banks—Of Friendly Societies.

Certificate relating to Issue of Shares, &c., of New Company.

THE first Certificate which has to be given by the Auditor of a Company registered under the Companies Acts, 1862 to 1900, is the one that has to be affixed to the Report of the Directors issued to the members seven days before the Statutory Meeting.

The particulars to be given in the Directors' Report will be found in Section 12, Subsections (2) and (3), of the Companies Act, 1900 (*see* Chapter III.), and the following form of Auditor's Certificate may be used :—

THE COMPANY, LIMITED.

The Directors report to the Members as follows :—

1. The total number of shares allotted is .
2. Of the shares so allotted have been allotted on the footing that they are to be paid up in cash as stated in the Prospectus, namely :—

On application £ per share,

On allotment £ per share,

On the day of £ per share,

and the residue, viz., shares, have been

allotted, credited as fully paid up, in part consideration for the goodwill, lands, buildings, stock-in-trade, and other assets of Messrs. purchased by the Company, as in the Company's Prospectus mentioned.

3. The total amount of cash received by the Company in respect of the said shares is £ , and it has received no cash in respect of the said shares.

4. The following is an Abstract of the Receipts and Payments of the Company on Capital Account to the date of this Report :—

Receipts.	£ s. d.	Payments.	£ s. d.

Note.—Here follows the rest of the Directors' Report, with which the Auditors are not concerned.

"We, the undersigned, being the Auditors of the above-named Company, hereby certify that the above Report is correct as to the shares allotted by the Company and as to the cash received in respect of such shares, and as to the Receipts and Payments of the Company on Capital Account."

"Auditors of the Company."

Certificate of Auditor on Balance Sheet.

The affixing of his Certificate to the Balance Sheet and issue of his Report is the conclusion of the Auditor's functions. It is true he may, in the case of a Company or Society registered under an Act of Parliament, attend the meeting of Members, to which the Accounts, as audited by him, are presented, and, if necessary, address the meeting

upon them. Or, in the case of a private audit, it may be necessary for him to explain to his Clients something not quite clear to them on the face of the Accounts; but, strictly, his duties are completed on signing his Certificate and Report.

Simple form of Certificate.

For many years, a simple Certificate affixed to the Accounts of a Company was deemed sufficient, such as

> "Audited,"
> "Audited and found correct;"

and no more comprehensive one could be adopted, as it implied (although, perhaps, not always meant to do so) that everything possible in the prosecution of an audit had been done. Other forms of Certificate, such as

> "Examined with the Books and Vouchers, and found to be correct;"
> "I have examined the above Accounts with the Books and Vouchers, and certify the same to be correct,"

were also considered sufficient for a Company, and in the case of private audits may still be adhered to, unless the client wishes for a more extended one.

The Companies Act, 1900, enacted as follows:—

> "Section 23.—The Auditors shall sign a Certificate at the foot of the Balance Sheet, stating whether or not all their requirements as Auditors have been complied with, and shall make a Report to the Shareholders on the Accounts examined by them, and on every Balance Sheet laid before the Company in General Meeting during their tenure of office; and in every such Report shall state whether, in their opinion, the Balance Sheet referred to in the Report is properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs, as shown by the Books of the Company, and such Report shall be read before the Company in General Meeting."

The provisions contained in this section are supplemental to, and not in substitution for, provisions as to audit contained in Articles of Association, or Regulations of a Company registered under the Companies Act, 1862, or to those contained in Clause 94 of Table A for Companies registered without Articles of Association. Where, however, the Act of 1900 is inconsistent with the clauses of Articles or of Table A the Act prevails.

The word "requirements" is, it is presumed, used in its popular sense, and not as referring merely to what the Auditor is entitled to require under the preceding words of the section.

Certificate suitable to Companies Act, 1862.

In order to fulfil the strict conditions of the first Schedule of the Companies Act, 1862, and in all Companies whose Articles of Association have been (so far as the duties of Auditors are concerned) drawn up on the same lines, the following Certificate should be affixed :—

> "In accordance with Section 23 of the Companies Act, 1900, I certify that all my requirements as Auditor have been complied with. I have examined the above Balance Sheet and Accounts with the Books of the Company, and certify that in my opinion the Balance Sheet is a full and fair Balance Sheet, containing the particulars required by the Memorandum and Articles of Association of the Company (or the first Schedule of the Companies Act, 1862), and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs."

Should the Auditor have called for explanations or information from the Directors which have been withheld or have not been deemed satisfactory, the above Certificate should be amended as follows :—

> "I certify that all my requirements as Auditor have not been complied with, inasmuch as the Directors have refused to (*here state the facts*)."

To Companies Act, 1879.

The following Certificate would satisfy the requirements of the Companies Act, 1879, where the Auditor is satisfied with the Accounts :—

> "In accordance with the Companies Act, 1900, I certify that all my requirements as Auditor have been complied with, and in accordance with the Companies Act, 1879, I further certify that I have examined the above Accounts and Balance Sheet, and in my opinion the Balance Sheet is a full and fair Balance Sheet, and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs, as shewn by the Books of the Company."

Interpretation of "As shewn by Books, &c."

The last eight words are very frequently introduced into the clause of the Articles of Association of limited Companies which refer to the Auditor's Report or Certificate, and the following explanation of Rigby, L.J.,

is of interest: "The words, 'as shewn by the Books of the Company,' seem to me to be introduced to relieve the Auditors from any responsibility as to affairs of the Company kept out of the books and concealed from them, but not to confine it to a mere statement of the correspondence of the Balance Sheet with the entries in the books."—*In re London and General Bank* (No. 2) [1895] 2 Ch. 692.

Certificate for Banking Companies.

The following form of Certificate might be used for a Banking or other Company having branches abroad:—

> "In accordance with Section 23 of the Companies Act, 1900, I certify that all my requirements as Auditor have been complied with, and I report that I have verified the Cash, Investments, Bills of Exchange, and other Assets in London, and have had access to the Accounts sent to London from the various branches in the Colonies, and, having examined the same, and the Books and Accounts of the London office, I am of opinion that the above Balance Sheet is a full and fair Balance Sheet, properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs as shewn by the Books of the Company."

Report in addition to Certificate.

When the Auditor of a Company, Institution, or any Association not registered under the Companies Acts, 1862 to 1900, is satisfied that the Accounts are practically correct, but considers it desirable that some further information should be afforded to the Members than is disclosed in the Accounts, but which, if included in the Certificate, would make it too lengthy, he should address a Report to the Members or Subscribers, and call attention to its existence by means of a short paragraph in the Certificate itself:—

> "and certify them, in my opinion, to be correct, in accordance with my Report of this day's date, addressed to the Members [or Subscribers]."
>
> or
>
> "and certify them, in my opinion, to be correct, subject to my Report of this day's date, which Report forms part of this Certificate."

The words, "in accordance with," in the first of these examples may be used when the Auditor is either satisfied the Accounts are absolutely correct, or when, although not

quite satisfied, for example, as to the values put upon Assets or other items on the credit side of the Balance Sheet, he feels he has no valid ground for raising any objection.

The words, "subject to," may be used when the Auditor is satisfied the Accounts are correct, subject to the special items referred to in the Report being ultimately ascertained to be also correct.

In a Memorandum handed by Mr. Whinney, a past President of the Institute of Chartered Accountants, to the Companies Acts Amendment Committee, which sat in 1895, were the following remarks :—

Mr. Whinney's remarks on Certificate for Bank Accounts.

"It should be borne in mind that, in the case of the audit of Banks, it is necessary that Auditors should be especially guarded in their Certificates. The very existence of a Bank depends not only upon its assets, but also upon its audit. An Auditor takes a very serious step by putting into his Certificate anything which may affect the stability of the Bank.

"In most Banks the Auditor is required to keep its secrets. It therefore requires careful consideration how far Auditors would be justified in pointing out to Shareholders in General Meeting many matters which they might very properly bring to the attention of the Directors. This question is complicated by considerations affecting the confidential relations of a Company and its customers, and the interests of shareholders themselves, as regards any prejudicial effect on Assets under consideration."

These remarks of an Auditor of experience are indicative of the difficulty Auditors of Companies registered under the Companies Act, 1862, used frequently to find themselves in, when, although they were satisfied that the Directors had been perfectly honest in their transactions with the funds of Shareholders and others intrusted to them, yet felt they had not disclosed the exact position of affairs to the Shareholders, not for the purpose of deceiving the latter in any way, but because they knew that what

they published to the Shareholders must necessarily have been made public generally.

In order to meet this difficulty Auditors frequently adopted a form of Certificate which, although not giving the information to the world which might, in their opinion, be prejudicial to the interests of their clients, the Shareholders, yet afforded them the opportunity of putting questions to the Directors at the Annual General Meeting at which the Accounts are presented. Certificate putting Shareholders on Inquiry.

The risk of so acting was, however, pointed out in the following remarks of Lindley, M.R. :—

"A person whose duty it is to convey information to others does not discharge that duty by simply giving them so much information as is calculated to induce them, or some of them, to ask for more. Information and means of information are by no means equivalent terms. Still, there may be circumstances under which information given in the shape of a printed document, circulated amongst a large body of shareholders, would, by its consequent publicity, be very injurious to their interests, and in such a case I am not prepared to say that an Auditor would fail to discharge his duty if, instead of publishing his Report in such a way as to insure publicity, he made a confidential Report to the Shareholders and invited their attention to it, and told them where they could see it." . . . . "An Auditor who gives Shareholders means of information, instead of information, respecting a Company's financial position, does so at his peril, and runs the very serious risk of being held judicially to have failed to discharge his duty."—*In re London and General Bank* (No. 2) [1895] 2 Ch. 684, 685. Danger of such Certificate.

The difficulties, however, referred to, which were experienced by Auditors of Companies registered under the Act of 1862, were disposed of by the Act of 1900 enacting a Report shall be presented as referred to hereafter.

Having regard to the preceding statement of Lindley, M.R., it is quite clear that when an Auditor is of opinion any of the Assets are not likely to ultimately realise the value put upon them by the Directors, he

does not discharge his duty to the shareholders by stating in his Certificate—

> "The value of the Assets as shown on the Balance Sheet is dependent upon realisation."

"It is a mere truism to say that the value of loans and securities depends on their realisation."—*In re London and General Bank* (No. 2) [1895] 2 Ch. 685.

Misfeasance.

The giving of a Certificate, assuming it to be to the knowledge of an Auditor a misleading Certificate, is a misfeasance within the meaning of the Companies (Winding-up) Act, 1890, Section 10, and is not a mere act of negligence; but where the Auditor believes that what he certifies is true, he fulfils his duty.

"An Auditor may certify the Accounts as correct, and be perfectly honest in the full discharge of his duty, yet the Accounts, nevertheless, may not truly represent the position of the Company."—*In re Kingston Cotton Mills Co.*, II. Manson 631.

Auditor not an Insurer.

"He is not an insurer; he does not guarantee that the Books do correctly show the true position of the Company's affairs; he does not even guarantee that his Balance Sheet is accurate according to the Books of the Company."—*In re London and General Bank* (No. 2) [1895] 2 Ch. 683.

Auditor's Report.

The Companies Act, 1900, introduced a very important addition to the duties of Auditors of Companies registered under the Act of 1862 by enacting that, in addition to the Certificate to be affixed by them to the Balance Sheet, they shall make a Report to the shareholders on the Accounts examined by them, and on every Balance Sheet laid before the Company in General Meeting during their tenure of office; and in every such Report shall state whether, in their opinion, the Balance Sheet is properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs as shown by the Books of the Company; the Act also further enacted that this Report shall be read before the Company in General Meeting. (Companies Act, 1900, Section 23, *vide* Chapter III.)

This Report, while not relieving the Auditor of any of his responsibilities, enables him to make a communication to the shareholders without in any way having to consider whether his remarks will be prejudicial to their interests. It is quite evident that the Legislature intended the Report to be a confidential document, the contents of which were to be communicated direct to the shareholders by their representative, duly appointed to examine on their behalf the Accounts showing the result of the management of the Directors.

The Report is not referred to in the Certificate, and is, therefore, not to be open to those to whom the Accounts with the Certificate attached may be shown, and, unless the Auditor wishes to qualify his Certificate, he should not in the body of it refer to the Report, which is enacted shall be merely read in General Meeting.

It is quite clear that the Certificate and Report must be separate, and separately signed, even though both be placed on the Balance Sheet. An Auditor is, of course, at liberty, should he so desire, to connect the Certificate with the Report by inserting in the Certificate a reference to the "subjoined" or "accompanying" Report, but unless he wishes to specially call the attention of the shareholders to some inaccuracy in the Balance Sheet he loses one of the advantages the Act gives him by so doing.

The following form of Report may be adopted :—

"THE COMPANY, LIMITED.

"AUDITOR'S REPORT.

"*To the Shareholders,*

"I have audited the Balance Sheet, dated the day of , 190 , and in my opinion such Balance Sheet is properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs as shown by the Books of the Company."

The meaning of the last eight words has already been given in this Chapter.

If, in the opinion of the Auditor, the Accounts and

Balance Sheet are so explicit that no further information need be given to the shareholders, his Report may consist solely of the above paragraph, but should he consider it his duty to call their attention to any matter not specifically referred to in the Accounts or his Certificate, he should add the necessary paragraphs, for example :—

"No amount has been written off for depreciation of the lease of , which expires in 190 ."

"No amount has been charged against the Profit and Loss Account in respect of the Patents, which still remain on the credit side of the Balance Sheet at £ ."

"Nothing has been written off the Patents for many years, and I am unable to express any opinion as to their value."

"No depreciation has been written off this year in respect of the lease of the Factory or of Machinery, &c., the Directors having considered this unnecessary in the first year's Accounts, on the ground that, on the reconstruction of the Company, these assets were acquired by the present Company at less than one-half of the amount at which they stood in the Books of the old Company. In our opinion the shareholders may assent to this."

"Included in the amount due from debtors is one of £ from Mr. , one of the Directors of the Company."

"The amount taken credit for in the Balance Sheet in respect of Capital Expenditure on the Mine, &c., includes all the expenses at the Mine and the London Office Expenses to the , 190 ."

"I have been unable to inspect the title deeds of the property, as I am informed they are in the hands of Messrs. , your local Bankers [*or* Solicitors]."

It must, however, be clearly understood that an Auditor does not discharge his duty by referring in his Report to something which affects the accuracy of the Balance Sheet or other Statements presented to the shareholders. An Auditor cannot certify that all his requirements have been complied with if, in his opinion, expenditure has been omitted from the Revenue Account, and consequently from the liabilities in the Balance Sheet, if due provision

has not been made for loss on realisation of debts, if assets have been over-valued, or the Accounts are inaccurate for any other reason.

Such inaccuracies are matters for his Certificate and not for his Report.

Position of the Auditor when the Accounts are incorrect.

One of the most unpleasant situations in which an Auditor of a Company can be placed is when he feels that he cannot append his Certificate to the Accounts he has audited without qualification.

Of course, in those cases where they are grossly inaccurate, whether so prepared unintentionally, or for the purpose of misleading the shareholders or the customers of the Company, or with a view to induce the public to take up additional shares, then the duty of the Auditor is clear.

He must positively refuse to give his unqualified Certificate, but at the same time may intimate his willingness to do so provided the Accounts be re-drawn so as to present an honest and correct statement of the transactions and position of the Company.

It frequently happens that Directors, owing, perhaps, to depression in trade, which they have reason to believe is only temporary, will, without any intention of acting dishonourably, present a Revenue Account showing a profit equal to that of preceding years, while, in fact, it is considerably less.

To any one not versed in Accounts this may appear impossible, but it is, undoubtedly, of very frequent occurrence.

When a Company is prosperous, an Auditor has usually very little trouble in arranging for a proper allowance for depreciation of stock-in-trade, plant, machinery, &c., to be charged against the Revenue Account, but when a period of depression in trade arises, there is frequently great difficulty in persuading the Directors to continue this wholesome practice. A variety of excuses are made for its discontinuance, and if the Auditor receives an actual refusal to amend the Accounts, it is not always easy to resolve on what course to pursue.

His difficulty in deciding what course to adopt.

It may be argued that, as each shareholder is a partner in the undertaking, they should be informed by their Auditor that the profits of the period referred to are not calculated on the same strict basis as hitherto, but the fact must not be overlooked that this information may be so made use of by a single shareholder as to depreciate or even totally destroy the future of the Company.

To refuse to sign the Accounts, or to insert in the Certificate that they are incorrect, might, therefore, be followed by results very disastrous to the Company, and, consequently, to the shareholders, whose representative the Auditor is.

May be obviated by means of a Special Report to the Members.

The best plan an Auditor can adopt under these circumstances is to adopt the suggestion given by Lindley, M.R., and, in addition to the Report required by the Act of 1900, make a confidential Report to the shareholders and inform them in his Certificate where such Report can be seen. Such Certificate might be worded as follows :—

> "We have examined the above Balance Sheet with the Books and Vouchers of the Company, and certify the same to be correct.
>
> "We think it desirable on this occasion to make a confidential Report to the shareholders, which Report must be considered as forming part of this Certificate, in connection with certain matters which have come under our notice during the audit, and this Report can be seen on application at the offices of the Company."

Shareholders, on reading such a Certificate, will, after they have called at the office of the Company and seen the Report, have the opportunity of considering what steps they shall take at the meeting, and, on being brought together, will decide whether to adopt the Accounts as presented by the Directors, or to reject them and pass a resolution that they be amended as recommended by their Auditor in his Report.

The Auditor must, of course, use his discretion as to the necessity of issuing a special Report of this nature. As long as the assets are not over-estimated in the Accounts he has not any right to insist on the Directors continuing a practice of charging the Revenue Account

with allowances for depreciation, which, perhaps, although not always necessary, they had no objection to do out of large profits. Should, however, he feel sure the assets have really depreciated in value since the last Balance Sheet was taken out, then it is clearly his duty to acquaint the shareholders with this fact, should it not be disclosed in the Accounts.

Libel Action will not lie in respect of Auditor's Certificate.

There can be little doubt that an action for libel will not lie in respect of statements used in the Certificate and Report of an Auditor, if made in a *bonâ fide* manner. A Company whose head office was at Manchester, with factories in Egypt, received from their Manager in Egypt Accounts of purchases made, quantity of Cotton and Oil in stock, and the expenses incurred. In the Revenue Account submitted to the Auditors, the last item entered on one side of the Account was "Deficiency in Stock, £1,306 1s. 7d." It was explained to the Auditors that this last item, though entered as deficiency, was, in truth, only a depreciation in the value of the stock, for which the Manager was not answerable; but the Auditors, notwithstanding, affixed the following Certificate:—

> "We certify that the Accounts as above stated are correct. Shareholders will observe that there is a charge of £1,306 1s. 7d. for deficiency of Stock, which the Manager is responsible for. His Accounts have been badly kept, and have been rendered to us very irregularly."

This Report, together with that of the Directors, was submitted to the Ordinary General Meeting of the Shareholders of the Company, according to the usual practice, and it was resolved by the meeting that the Report should be printed and sent to the shareholders. The Reports (including the above statement) were accordingly sent to a printer, printed and circulated among the shareholders, and used at an adjourned meeting of the shareholders. The Manager brought an action for libel against the Company, when it was held that, as it was the duty of the Directors

to communicate the Report of the Auditors to the shareholders, and it was for the interest of all the shareholders to be informed of the Report, the printing and publication of the Reports were *primâ facie* privileged, and that there was no evidence of expressed malice for the jury.—*Lawless v. Anglo-Egyptian Cotton and Oil Co.*, 4 Q.B. 262.

Certificate for Railway Companies.

The requirements of the Railway Companies Act, 1867, would be satisfied by the following Certificate :—

> "We hereby certify that the above Half-yearly Accounts contain a full and true statement of the financial condition of the Company; and that the Dividends proposed to be declared on the several Stocks and Shares are *bonâ fide* due thereon, after charging the Revenue of the Half-year with all expenses which ought in our judgment to be paid thereout."

Building Societies.

In the Copy of Form prescribed by the Chief Registrar of Friendly Societies, under the Building Societies Act, 1894, the following Certificate for Auditors is given. The form is not compulsory, but it fulfils the requirements of the Act :—

> "We, the undersigned, , being a person who publicly carries on the business of an Accountant at No. Street, , and , residing at , the duly appointed Auditors of the above-mentioned Society, do hereby attest the foregoing Accounts and Statements, and certify that they are correct, duly vouched, and in accordance with law, and we certify that we have, and each of us has, at this audit actually inspected the Mortgage Deeds and other Securities belonging to the Society, in respect of each of the Properties in mortgage to the Society referred to in the foregoing Accounts and Statements."

Savings Banks.

For Savings Banks the following Form of Certificate is recommended :—

> "Having examined the Books and Accounts of the Savings Bank for the past year, certify that the foregoing extracted list of Depositors' balances, made up to the 20th November , is a correct statement of the number of open Accounts, viz., , and of the amount due in respect of them severally and in the aggregate, the total amount being "
> (in words and figures).

For a Society registered under the Friendly Societies Act, 1896, and the Collecting Societies and Industrial Assurance Companies Act, 1896, the following form is recommended by the Chief Registrar :— Friendly Societies, &c.

> "The undersigned, having had access to all the Books and Accounts of the Society, and having examined the foregoing General Statement, and verified the same with the Accounts and Vouchers relating thereto, now sign the same as found to be correct, duly vouched, and in accordance with law."

If in any respect the Accounts are incorrect, unvouched, or not in accordance with law, the Auditors are not to give the above Certificate, but are to make a Special Report to the Society, of which a copy is to be sent by the Society to the Registrar with the Statement.

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Balance Sheet prescribed by Companies Act, 1862.—TABLE A.

Dr. BALANCE SHEET of the Co. made up to 18 . Cr.

CAPITAL AND LIABILITIES.		£ s. d.	£ s. d.	PROPERTY AND ASSETS.		£ s. d.	£ s. d.
I. CAPITAL.	Shewing: 1 The Number of Shares . . . 2 The Amount paid per Share . . 3 If any arrears of Calls, the Nature of the Arrear, and the Names of the Defaulters . 4 The Particulars of any forfeited Shares.			III. PROPERTY held by the Company.	Shewing: 7 Immovable Property, distinguishing— (*a.*) Freehold Land . . . (*b.*) ,, Buildings . . (*c.*) Leasehold ,, . . 8 Movable Property, distinguishing— (*d.*) Stock in Trade . . . (*e.*) Plant . . . . The cost to be stated with deductions for deterioration in value as charged to the Reserve Fund or Profit and Loss.		
II. DEBTS AND LIABILITIES of the Company.	Shewing: 5 The Amount of Loans on Mortgages or Debenture Bonds. 6 The Amount of Debts owing by the Company, distinguishing— (*a.*) Debts for which Acceptances have been given. (*b.*) Debts to Tradesmen for supplies of Stock in Trade or other Articles. (*c.*) Debts for Law Expenses. (*d.*) Debts for Interest on Debentures or other Loans. (*e.*) Unclaimed Dividends. (*f.*) Debts not enumerated above.			IV. DEBTS owing to the Company.	Shewing: 9 Debts considered good, for which the Company hold Bills or other Securities. 10 Debts considered good, for which the Company hold no Security. Debts considered doubtful and bad. 11 Any Debt due from a Director or other Officer of the Company to be separately stated.		
VI. RESERVE FUND.	Shewing: The Amount set aside from Profits to meet Contingencies.			V. CASH AND INVESTMENTS.	Shewing: 12 The Nature of Investment and Rate of Interest. 13 The Amount of Cash, where lodged, and if bearing Interest.		
VII. PROFIT AND LOSS.	Shewing: The Disposable Balance for Payment of Dividends, &c.						
CONTINGENT LIABILITIES.	Claims against the Company not acknowledged as Debts. Moneys for which the Company is contingently liable.						

Forms of Account prescribed by Regulation of Railways Act, 1868.

Railway. Half-year ending 18

[No. 1.] Statement of Capital authorised, and created by the Company.

Acts of Parliament, or Certificates of the Board of Trade.	Capital authorised.			Capital created or sanctioned.			Balance.		
	Stock and Shares.	Loans.	Total.	Stock and Shares.	Loans.	Total.	Stock and Shares.	Loans.	Total.
	£	£	£	£	£	£	£	£	£
1.									
2. [Except where Capital Powers are comprised in a Consolidation Act, each Act or Certificate authorizing Capital to be stated here separately in order of date.]									
3.									
4.									
5.									
&c.									
Total									

[No. 2.] Statement of Stock and Share Capital created, shewing the Proportion Received.

Description.	Amount created.	Amount received.	Calls in arrear.	Amount uncalled.	Amount unissued.
	£	£	£	£	£
[State each class of Stock or Shares in order of date of creation, showing the premium or discount, if any, at which it was issued, the preferential or fixed dividends, if any, to which it is entitled, and any other conditions attached to it.]					
Total					

[No. 3.] Capital raised by Loans and Debenture Stock.

—	Raised by Loans.									Raised by Issue of Debenture Stocks.			Total raised by Loans and by Debenture Stocks.
	At per Cent.	At per Cent.	At per Cent.	At per Cent.	At per Cent.	At per Cent.	At per Cent.	At per Cent.	Total Loans.	At per Cent.	At per Cent.	Total Debenture Stocks.	
	£	£	£	£	£	£	£	£	£	£	£	£	£ s. d.
Existing at ...													
Ditto at ...													
Increase													
Decrease													

Total Amount authorised to be raised by Loans and by Debenture Stocks in respect of Capital created, as per Statement No. 1 ... ...

Total Amount raised by Loans and by Debenture Stock, as above ... ...

Balance being available Borrowing Powers at 186

No. 4.] Receipts and Expenditure on Capital Account.

Dr. *Cr.*

To Expenditure—	Amount Expended to	Amount Expended during Half-year.	Total.	By Receipts—	Amount Received to	Amount Received during Half-year.	Total.
	£ s. d.	£ s. d.	£ s. d.		£ s. d.	£ s. d.	£ s. d.
On Lines open for Traffic (No. 5) ...				Shares and Stock, per Account No. 2			
On Lines in course of Construction (No. 5)				Loans, per Account No. 3			
Working Stock (No. 5)				Debenture Stock, per Account No. 3			
Subscriptions to other Railways (No. 5)				Sundries (in detail)			
Docks, Steamboats, and other special Items (No. 5) ...							
,, Balance							

[No. 5.] DETAILS OF CAPITAL EXPENDITURE, for Half-Year ending 18

Lines open for Traffic—Particulars—	[Shewing under separate Heads, Amount paid for Land (Purchase and Compensation), Construction of Way and Stations, including	
Lines in course of Construction—Particulars—	Rails, Chairs, Sleepers, &c., Engineering and Surveying, Law Charges, Parliamentary Expenses, Interest, Commission, &c.]	
Working Stock—Particulars—Shewing each Description of Stock		
Subscriptions to other Railways—Particulars—Stating Lines		
Docks, Steamboats, and other special Items—Particulars		
Total Expenditure for Half-Year, as per Account No. 4 ...		

[No. 6.] RETURN OF WORKING STOCK.

	Locomotive.		Coaching.							Merchandise and Mineral.							
	Engines.	Tenders.	First Class.	Second Class.	Third Class.					Goods Waggons.	Goods Waggons covered.	Coke Trucks.	Cattle Trucks.	Timber Trucks.			
Stock on the 18																	
Ditto on the 18																	
Increase during the Half-Year																	
Decrease during the Half-Year																	

[No. 7.] ESTIMATE OF FURTHER EXPENDITURE ON CAPITAL ACCOUNT.

	Further Expenditure.		
	During the Half-Year ending	In subsequent Half-Years.	Total.
Lines open for Traffic ... ... (Particulars showing principal Items.)			
Lines in course of Construction ... ... (Details of each Line.)			
Working Stock ... ... (Particulars.)			
Subscription to other Railways ... ... (Specifying Lines.)			
Docks, Steamboats, and other Special Items ... ... (Particulars.)			
Works not yet commenced and in abeyance (in detail) ...			
Other Items (in detail)			
Total estimated further Expenditure of Capital			

[No. 8.] CAPITAL POWERS AND OTHER ASSETS AVAILABLE TO MEET FURTHER EXPENDITURE, as per No. 7.

Share and Loan Capital authorised or created but not yet received ...	
Any other Assets (in detail)	
Total	

[No. 9.] *Dr.* REVENUE ACCOUNT. *Cr.*

Half-Year ended	EXPENDITURE.	£ s. d.	Half-Year ended	RECEIPTS.	£ s. d.	£ s. d.
	To Maintenance of Way, Works, and Stations ... } See Abstract A.			By Passengers... ...		
	,, Locomotive Power ...do. B.			,, Parcels, Horses, Carriages, &c. ...		
	,, Carriage and Wagon Repairs ... } do. C.			,, Mails		
	,, Traffic Expenses ...do. D.			,, Merchandise ...		
	,, General Charges ...do. E.			,, Live Stock... ..		
	,, Law Charges			,, Minerals		
	,, Parliamentary Expenses ...					
	,, Compensation (Accidents and Losses)			,, Special and Miscellaneous Receipts— *Such as Navigations, Steamboats, Rents, Transfer Fees, &c.*		
	,, Rates and Taxes					
	,, Government Duty					
	,, Special and Miscellaneous Expenses (if any) ...			*Details.*		
	,, Balance carried to Net Revenue Account... ...					
	£			£		

[No. 10.] *Dr.* NET REVENUE ACCOUNT. *Cr.*

Half-Year ended		£ s. d.	Half-Year ended		£ s. d.
	To Interest on Mortgage and Debenture Loans... ...			By Balance brought from last Half-Year's Account ..	
	,, Interest on Debenture Stock				
	,, Interest on Calls in Advance			,, Ditto, Revenue Account, No. 9	
	,, Interest on Temporary Loans				
	,, Interest on Lloyd's Bonds				
	,, Interest on Banking Balances			,, Dividends on Shares in other Companies	
	,, General Interest Account (if in Debit)				
	,, Rents of Leased Lines, Guarantees, &c. ... ... *Details.*			,, Bankers & General Interest Account (if in Credit) ...	
	,, Special and Miscellaneous Payments (if any) ... *Details.*			,, Special and Miscellaneous Receipts (if any)	
				(*Details to be given.*)	
	,, Balance, being Payment available for Dividend ...				
	[*See* No. 13.] £			£	

[No. 11.] PROPOSED APPROPRIATION OF BALANCE AVAILABLE FOR DIVIDENDS.

Half-Year ended		
	Balance available for Dividend as per Account No. 10 ... ... £	
	Preference Stock } to be stated in order of creation, } £	
	Ditto } with rate of dividend. }	
	Ditto	
	Ordinary Stock (being at the rate of per cent.) ...	
	Balance to next Half-Year... ... £	

[No. 12.] ABSTRACTS.

A. MAINTENANCE OF WAY, WORKS, &c.

Half Year ended.		£ s. d.	£ s. d.
	Salaries, Office Expenses and General Superintendence		
	Maintenance and Renewal of Permanent Way		
	Wages		
	Materials		
	Repairs of Roads, Bridges, Signals, and Works		
	Repairs of Stations and Buildings		
	Special Expenditure (if any)		
	MILES MAINTAINED:		
	Double		
	Single		
	Total		
	Total		

B. LOCOMOTIVE POWER.

Half Year ended.		£ s. d.	£ s. d.
	Salaries, Office Expenses and General Superintendence		
	RUNNING EXPENSES:		
	Wages connected with the working of Locomotive Engines		
	Coal and Coke		
	Water		
	Oil, Tallow, and other Stores		
	REPAIRS & RENEWALS:		
	Wages		
	Materials		
	Special Expenditure		
	£		

C. REPAIRS AND RENEWALS OF CARRIAGES AND WAGGONS.

Half Year ended.		£ s. d.	£ s. d.
	CARRIAGES:		
	Salaries, Office Expenses and General Superintendence		
	Wages		
	Materials		
	WAGGONS:		
	Salaries, Office Expenses and General Superintendence		
	Wages		
	Materials		
	Total		

D. TRAFFIC EXPENSES.

Half Year ended.		£ s. d.
	Salaries and Wages, &c.	
	Fuel, Lighting, Water, and General Stores	
	Clothing	
	Printing, Stationery, and Tickets	
	Horses, Harness, Vans, Provender, &c.	
	Waggon Covers, Ropes, &c.	
	Joint Station Expenses	
	Miscellaneous Expenses	
	Special Expenditure (if any)	

E. GENERAL CHARGES.

Half Year ended.		£ s. d.
	Directors	
	Auditors and Public Accountants (if any)	
	Salaries of Secretary, General Manager, Accountant, and Clerks	
	Office Expenses ditto ditto	
	Advertising	
	Fire Insurance	
	Electric Telegraph Expenses	
	Railway Clearing House Expenses	
	Special Expenditure (if any)	

[No. 13.] *Dr.* GENERAL BALANCE SHEET. *Cr.*

	£ s. d.		£ s. d.
To Capital Account, Balance at Credit thereof, as per Account No. 4		By Cash at Bankers — Current Account	
,, Net Revenue Account, Balance at Credit thereof, as per Account No. 10		,, Cash on Deposit at Interest	
,, Unpaid Dividends and Interest		,, Cash invested in Consols and Government Securities	
,, Guaranteed Dividends and Interest payable or accruing and provided for		,, Cash invested in Shares of other Railway Companies not charged as Capital Expenditure	
,, Temporary Loans		,, General Stores — Stock of Materials on hand	
,, Lloyd's Bond and other Obligations not included in Loan Capital Statement, No. 3		,, Traffic Accounts due to the Company	
,, Balance due to Bankers		,, Amounts due by other Companies	
,, Debts due to other Companies		,, Do. Clearing House	
,, Amount due to Clearing House		,, Do. Post Office	
,, Sundry Outstanding Accounts		,, Sundry Outstanding Accounts	
,, Fire Insurance Fund on Stations, Works, and Buildings		,, Suspense Accounts (if any) *To be enumerated.*	
,, Insurance Fund on Steamboats		,, Special Items	
,, Special Items			
£		£	

[No. 14.] MILEAGE STATEMENT.

Half-Year ended.		Miles authorised.	Miles constructed.	Miles constructing or to be constructed.	Miles worked by Engines.
	Lines owned by Company				
	Do. partly owned				
	Do. leased or rented				
	Total				
	Do. worked				
	Foreign Lines worked over				
	Total				

[No. 15.] STATEMENT OF TRAIN MILEAGE.

Half-Year ended.		
	Passenger Trains	
	Goods and Mineral Trains	
	Total	

(Signed) *Chairman or Deputy-Chairman of Company.*
Secretary or Accountant of Company.

CERTIFICATE RESPECTING THE PERMANENT WAY, &C.

I hereby certify that the whole of the Company's Permanent Way, Stations, Buildings, Canals, and other Works have during the past Half-year been maintained in good Working Condition and Repair.

Date 18 . *Engineer.*

CERTIFICATE RESPECTING THE ROLLING STOCK.

I hereby certify that the whole of the Company's Plant, Engines, Tenders, Carriages, Waggons, Machinery, and Tools, also the Marine Engines of the Steam Vessels, have during the past Half-year been maintained in good Working Order and Repair.

Date 18 . *Chief Engineer, or*
Locomotive Superintendent.

AUDITOR'S CERTIFICATE.

As prescribed by Act 30 and 31 Victoria, Cap. 127, to follow.

THE GAS COMPANY.—Year ended 31st December, 18 .

A.—STATEMENT OF SHARE CAPITAL on the 31st December, 18 .

1 Description of Capital.	2 Maximum Dividend authorised.	3 Number of Shares issued.	4 Nominal Amount of Share.	5 Called up per Share.	6 Total paid up.	7 Amount issued but not paid up.	8 Remaining to be issued.	9 Total Amounts authorised.

B.—STATEMENT OF LOAN CAPITAL on the 31st December, 18 .

1 Description of Loan (Mortgage, Bond, Debenture, Stock, &c.).	2 Rate per Cent. of Interest.	3 Total Amounts borrowed at 31st December, 18 .	4 Remaining to be borrowed.	5 Total Amounts authorised.

Total Share Capital paid up (see A) ..... £
Do. Loan do. borrowed (see B) ..... £

Total Capital received..... £

C.—CAPITAL ACCOUNT, for the Year ended 31st December, 18 .

	Expenditure to 31st Dec., 18 .	Expended this Year.	Total to 31st Dec., 18 .
	£ s. d.	£ s. d.	£ s. d.
1. To Expenditure to 31st December, 18 *Since that date.*			
2. To Lands acquired, including Law Charges			
3. To New Buildings, Manufacturing Plant, Machines, Storage Works, and other Structures connected with Manufacture ...			
4. To new Mains and Service Pipes (not being in place of old ones) including laying same, Paving, and other works connected with distribution.....			
5. To new Meters (not in place of old ones), including fixing			
6. To Costs of promoting Special Act			
7. To Special Items (if any)			
Total Expenditure			
To Balance of Capital Account ...			
£			

	Certified Receipts 31st Dec., 18 .	Received during Year.	Total Receipts to 31st Dec., 18 .
	£ s. d.	£ s. d.	£ s. d.
1. By Ordinary Shares of £ each			
2. By ditto of £ each			
3. By Preference Shares of £ each			
4. By Debenture Stock			
5. By Mortgages and Bonds.....			
6. By Amount received in anticipation of Calls			
Total			
£			

D.—Revenue Account, for the Year ended 31st December, 18 .

	£ s. d.	£ s. d.		£ s. d.	£ s. d.
To Manufacture of Gas.			*By Sale of Gas.*		
1. Coals, including Dues, Carriage, Unloading, and all Expenses of depositing same on Works			1. Common Gas (cubic feet), at / per 1000 cubic feet		
2. Purifying Materials, Oil, Water, and Sundries at Works			2. Cannel Gas (cubic feet), at / per 1000 cubic feet		
3. Salaries of Engineers, including Chief Engineer (if any), Superintendents, and Officers at Works			3. Public Lighting and under Contracts		
4. Wages and Gratuities at Works			4. Rental of Meters		
5. Repairs and Maintenance of Works and Plant (including Renewal of Retorts), Machines, Apparatus, Tools, Materials, and Labour .. £			*By Residual Products.*		
Less Old Material sold £			5. Coke, less Labour and Cartage		
To Distribution of Gas.			6. Breeze, ditto		
6. Salaries of Surveyor, Chief Inspector, Inspectors, Assistant Inspectors, and Clerks in Light Office			7. Tar, ditto		
7. Repair, Maintenance, and Renewal of Mains, and of Service Pipes, including Materials, Laying and Paving, and Labour			8. Ammoniacal Liquor, ditto		
8. Repairing, Renewing, and Refixing Meters			9. By Rents		
To Public Lamps.			10. By Transfer Fees		
9. Lighting and Repairing			By other Items (if any)		
To Rents, Rates, and Taxes.					
10. Rents					
11. Rates and Taxes					
To Management.					
12. Directors' Allowances					
13. Salaries of Secretary, Accountant and Clerks, Office Keepers, and Messengers					
14. Collectors' Commission or Salaries					
15. Stationery and Printing					
16. General Establishment Charges and Incidentals					
17. Auditor					
To Law and Parliamentary Charges.					
18. Law					
19. Parliamentary (oppositions)					
20. To Depreciation Fund for Works on Leasehold Lands (if any)					
21. To Bad Debts					
To other Items (if any)					
Total Expenditure					
Balance carried to Profit and Loss Account, E.			Total Receipts		

E.—Profit and Loss Account (Net Revenue), for the Year ended 31st December, 18 .

Dr.	£ s. d.		£ s. d.
1. To amount carried to Reserved Fund Account, F (if any), from Profits of 18		1. By Balance of Net Profit brought from last Account (31st December, 18)	
2. ,, Interest on Temporary Loans, and Moneys received in anticipation of Calls		2. ,, Amount drawn from Reserved Fund (if any) Less Dividend paid for the Half-year ended 31st December, 18 .	
3. ,, Ditto on Mortgages and Bonds accrued to 31st December, 18			
4. ,, Ditto on Debenture Stock to ditto			
5. ,, Half-year's Dividend on 1st Preferential to 30th June, 18		3. Balance brought from Revenue Account, D, being Profit for Year to December, 18 .	
6. ,, Ditto, 2nd Preferential to ditto		4. Interest on Moneys deposited..	
7. ,, Ditto on Ordinary Shares at per Cent.....			
,, Balance of Net Profit to be carried to next Account, subject to Half-year's Dividends to 31st December, 18			
£		£	

F.—Reserved Fund Account, for the Year ended 31st December, 18 .

	£ s. d.		£ s. d.
1. Amount (if any) carried to Profit and Loss Account (E) to make up deficiencies of Dividends to 31st December, 18		1. By Balance brought from last Account	
2. Amount Paid for Extraordinary Claim or Demand (if any)		2. ,, Balance brought from profit and Loss Account (E)	
3. Amount of Balance to be carried to next Account		3. ,, Interest on Amount Invested	
£		£	

Like Accounts must be given for Depreciation Fund for Works on Leaseholds (if any).

G.—Statement of Coals, during the Year ended 31st December, 18 .

Description of Coal.	In Store, 31st December, 18 .	Received during Year.	Carbonized or used during Year.	In Store, 31st December, 18 .
	Tons.	Tons.	Tons.	Tons.
Common				
Cannel				

H.—Statement of Residual Products, for the Year ended 31st December, 18 .

Description of Residual.	In Store, 31st December, 18 . Estimated.	Made during Year. Estimated.	Used in Manufacture during Year. Estimated.	Sold during Year.	In Store, 31st December, 18 . Estimated.
Coke, Common, chaldrons of 36 bushels					
Cannel ,, ,,					
Breeze ,, ,,					
Tar, gallons					
Ammoniacal Liquor, butts of 108 gallons					

I.—General Balance Sheet, on 31st December, 18 .

Dr.	£ s. d.		*Cr.* £ s. d.
1. *To Capital Account*— Balance at Credit thereof (Account C)		1. By Cash at Bankers	
2. ,, *Profit and Loss Account*— Balance at Credit thereof (Account E)		2. ,, Cash on Deposit or at Interest	
3. ,, *Reserved Fund*— Balance at Credit thereof (Account F)		3. ,, Coals for Stock on hand, 31st December, 18	
4. ,, *Depreciation Fund* (for Works on Leasehold Lands)— Balance at Credit thereof (Account)		4. ,, Coke and Breeze, 31st December, 18	
5. ,, Unpaid Dividends.....		5. ,, Tar and other Products, 31st December, 18	
6. ,, Interest accrued and unpaid on Mortgages, Bonds, and Debenture Stock, and other Loans, to 31st December, 18		6. ,, Sundry Stores, 31st December, 18	
7 ,, Sundry Tradesmen and others, for Amount due for Coals, Stores, &c., to 31st December, 18		7. ,, Gas and Meter Rental; Balance of this Account due to the Company on 31st December, 18 , less Deposits and Prepayments	
8. ,, *Wages and Contingencies*— Amount due to 31st December, 18		8. ,, Coke and other Residuals, 31st December, 18	
,, Other Items (if any)		9. ,, Sundry Accounts, 31st December, 18	
		,, Special Items (if any), including Investments	
£		£	

FIRST SCHEDULE.

REVENUE ACCOUNT of the for the Year ending 18 .

18 (Date)		£ s. d.	18 (Date)		£ s. d.
	Amount of Funds at the beginning of the Year ...			Claims under Policies (after deduction of Sums Re-assured)	
	Premiums.....			Surrenders	
	Consideration for Annuities granted.....			Annuities.....	
	Interest and Dividends.....			Commission	
	Other Receipts (Accounts to be specified)			Expenses of Management...	
				Dividends and Bonuses to Shareholders (if any)... ..	
				Other Payments (Accounts to be specified)	
				Amount of Funds at the end of the Year, as per second Schedule.....	
		£			£

Note 1.—Companies having separate Accounts for Annuities to return the particulars of their Annuity business in a separate statement.

Note 2.—Items in this and in the Accounts in the Third and Fifth Schedules should be the net amounts after deduction of the amounts paid and received in respect of Re-assurances.

SECOND SCHEDULE.

BALANCE SHEET of the on the 18 .

LIABILITIES.	£ s. d.	ASSETS.	£ s. d.
Shareholders' Capital paid up (if any).....£		Mortgages on Property within the United Kingdom	
Assurance Fund		Mortgages on Property out of the United Kingdom	
Annuity Fund (if any)		Loans on the Company's Policies. .	
Other Funds (if any) to be specified		Investments—	
		In British Government Securities	
Total Funds, as per First Schedule		Indian and Colonial Government Securities.....	
Claims admitted but not paid*		Foreign Government Securities	
Other Sums owing by the Company* (Accounts to be specified)		Railway and other Debentures and Debenture Stocks.... ...	
		Railway Shares (Preference and Ordinary)	
		House Property..... ...	
		Other Investments (to be specified)	
		Loans upon Personal Security	
		Agent's Balances	
		Outstanding Premiums	
		Do. Interest	
		Cash—On Deposit .....£	
		In hand and on Current Account	
		Other Assets (to be specified)..... ...	
	£		£

* *Note.*—These items are included in the corresponding items in the First Schedule.

THIRD SCHEDULE.

Revenue Accounts of the for the Year ending

No. 1.—Life Assurance Account.

(Date)		£ s. d.	(Date)		£ s. d.
	Amount of Life Assurance Fund at the beginning of the year			Claims under Life Policies (after deduction of sums Re-assured)	
	Premiums, after deduction of Re-assurance Premiums			Surrenders	
	Consideration for Annuities granted			Annuities	
	Interest and Dividends			Commission	
	Other Receipts (accounts to be specified)			Expenses of Management	
				Other Payments (accounts to be specified)	
				Amount of Life Assurance Fund at the end of the year, as per Fourth Schedule	
		£			£

Note.—Companies having separate accounts for annuities to return the particulars of their Annuity business in a separate statement.

No. 2.—Fire Account.

	Amount of Fire Insurance Fund at the beginning of the year			Losses by Fire (after deduction of Re-assurances)	
	Premiums received, after deduction of Re-assurances			Expenses of Management	
	Other Receipts to be specified			Commission	
				Other Payments to be specified	
				Amount of Fire Insurance Fund at the end of the year, as per Fourth Schedule	
		£			£

Note.—When Marine or any other branch of business is carried on, the income and expenditure thereof to be in like manner stated in a separate account.

No. 3.—Profit and Loss Account.

	Balance of last year's Account			Dividends and Bonuses to Shareholders	
	Interest and Dividends not carried to other Accounts			Expenses not charged to other Accounts	
	Profits realised (accounts to be specified)			Loss realised (accounts to be specified)	
	Other Receipts			Other Payments	
				Balance as per Fourth Schedule	
		£			£

Note.—This Account is not required if the items have been incorporated in the other Accounts of this Schedule.

FOURTH SCHEDULE.

BALANCE SHEET of the on the 18

LIABILITIES.	£ s. d.	ASSETS.	£ s. d.
Shareholders' Capital		Mortgages on Property within the United Kingdom ...	
General Reserve Fund (if any) ...		Do. out of the United Kingdom	
Life Assurance Fund*		Loans on the Company's Policies	
Annuity Fund (if any)*		Investments—	
Fire Fund		In British Government Securities	
Marine Fund		Indian & Colonial do.	
Profit and Loss (if any)		Foreign do.	
Other Funds (if any, to be specified)		Railway and other Debentures and Debenture Stocks ...	
£ s. d.		Do. Shares (Preference and Ordinary)	
Claims under Life Policies admitted, but not yet paid*		House Property	
Outstanding Fire Losses		Other Investments (to be specified)	
Do. Marine Losses		Loans upon Personal Security ...	
Other sums owing by the Company (accounts to be specified) ...		Agents' Balances...	
		Outstanding Premiums	
		Do. Interest	
		Cash—On Deposit ...£	
		In hand and on Current Account ...	
		Other Assets (to be specified) ...	
£		£	

* If the Life Assurance Fund is, in accordance with Section 4 of this Act, a separate trust fund for the sole security of the Life Policy holders, a separate Balance Sheet for the Life Branch may be given in the form contained in Schedule 2. In other respects the Company is to observe the above form. See also note to Second Schedule.

FIFTH SCHEDULE.

STATEMENT RESPECTING THE VALUATION OF THE LIABILITIES UNDER LIFE POLICIES AND ANNUITIES of the , to be made by the Actuary.

The answers should be numbered to accord with the numbers of the corresponding questions).

1. The date up to which the valuation is made.

2. The principles upon which the valuation and distribution of profits among the Policy-holders are made, and whether these principles were determined by the instrument constituting the Company, or by its Regulations or Bye-laws, or otherwise.

3. The Table or Tables of Mortality used in the valuation.

4. The Rate or Rates of Interest assumed in the calculations.

5. The proportion of the Annual Premium Income (if any) reserved as a provision for future expenses and profits. (If none, state how this provision is made.)

6. The Consolidated Revenue Account since the last valuation, or, in case of a

Company which has made no valuation, since the commencement of the business. (This return should be made in the Form annexed.)

7. The liabilities of the Company under Life Policies and Annuities at the date of the valuation, showing the number of Policies, the amount assured, and the amount of Premiums payable annually under each class of Policies, both with and without participation in profits; and also the net liabilities and assets of the Company, with the amount of surplus or deficiency. (These returns should be made in the Form annexed.)

8. The time during which a Policy must be in force in order to entitle it to share in the profits.

9. The results of the valuation, showing—

(1) The total amount of profit made by the Company.

(2) The amount of profit divided among the Policy-holders, and the number and amount of the Policies which participated.

(3) Specimens of Bonuses allotted to Policies for £100 effected at the respective ages of 20, 30, 40, and 50, and having been respectively in force for five years, ten years, and upwards, at intervals of five years respectively, together with the amounts apportioned under the various modes in which the Bonus might be received.

(Form referred to under heading No. 6, in the Fifth Schedule.)

Consolidated Revenue Account of the commencing for years and ending .

	£ s. d.		£ s. d.
Amount of Funds on 18 , the beginning of ...		Claims under Policies (after deduction of sums Re-assured)	
Premiums (after deduction of Re-assurance Premiums) ...		Surrenders	
Consideration for Annuities granted		Annuities	
Interest and Dividends		Commission	
Other Receipts (accounts to be specified)		Expenses of Management ...	
		Dividends and Bonuses to Share-holders (if any)	
		Other Payments (accounts to be specified)	
		Amount of Funds on 18 , the end of the period, as per First (or Third) Schedule ...	
£		£	

(Form referred to under heading No. 7 in Fifth Schedule.)

SUMMARY AND VALUATION OF THE POLICIES of the as at 18

DESCRIPTION OF TRANSACTIONS.	PARTICULARS OF THE POLICIES FOR VALUATION.				VALUATION.			
					Value by the Interest		Table, per Cent.	
	Number of Policies.	Sums assured and Bonuses.	Office Yearly Premiums.	Net Yearly Premiums, if ascertained.	Sums Assured and Bonuses.	Office Yearly Premiums.	Net Yearly Premiums, if computed.	Net liability.
ASSURANCES.								
I. *With participation in Profits.*								
For whole term of life.....								
Other Classes (to be specified) ...								
Extra Premiums payable								
Total Assurances with Profits								
II. *Without participation in Profits.*								
For whole term of life.....								
Other Classes (to be specified) ...								
Extra Premiums payable								
Total Assurances without Profits.....								
Total Assurances								
Deduct Re-assurances.....								
Net Amount of Assurances...								
Adjustments (if any)								
ANNUITIES.								
Immediate								
Other Classes (to be specified) ...								
Total of the Results								

The term "extra Premium" in this Act shall be taken to mean the charge for any risk not provided for in the Minimum Contract Premium. If Policies are issued in or for any country at Rates of Premium deduced from Tables other than the European Mortality Tables adopted by the Company, separate Schedules similar in form to the above must be furnished.

(Form referred to under heading No. 7 in Fifth Schedule.)

VALUATION BALANCE SHEET of as at 18 .

Dr.	£		£	*Cr.*
To Net Liability under Assurance and Annuity Transactions (as per Summary Statement provided in Schedule 5)		By Life Assurance and Annuity Funds (as per Balance Sheet, under Schedule 2 or 4).....		
Surplus (if any)		,, Deficiency (if any)		
	£		£	

SIXTH SCHEDULE.

STATEMENT OF THE LIFE ASSURANCE AND ANNUITY BUSINESS of the

on the 18

(The answers should be numbered to accord with the numbers of the corresponding questions. Statements of Re-assurances corresponding to the statements in respect of Assurances under headings 2, 3, 4, 5, and 6 are to be given.)

1. The published Table or Tables of Premiums for Assurances for the whole term of life which are in use at the date above mentioned.

2. The total amount Assured on lives for the whole term of life, which are in existence at the date above mentioned, distinguishing the portions Assured with and without Profits, stating separately the total Reversionary Bonuses, and specifying the sums Assured for each year of life from the youngest to the oldest ages.

3. The amount of Premiums receivable annually for each year of life, after deducting the abatements made by the application of Bonuses, in respect of the respective Assurances mentioned under heading No. 2, distinguishing ordinary from extra Premiums.

4. The total amount assured under classes of Assurance Business other than for the whole term of life, distinguishing the sums Assured under each class, and stating separately the Amount Assured with and without Profits, and the total amount of Reversionary Bonuses.

5. The amount of Premiums receivable annually in respect of each such special class of Assurances mentioned under heading No. 4, distinguishing ordinary from extra Premiums.

6. The total amount of Premiums which has been received from the commencement upon all Policies under each special class mentioned under heading No. 4, which are in force at the date above mentioned.

7. The total amount of immediate Annuities on lives, distinguishing the amounts for each year of life.

8. The amount of all Annuities other than those specified under heading No. 7, distinguishing the amount of Annuities payable under each class, the amount of Premiums annually receivable, and the amount of consideration-money received in respect of each such class, and the total amount of Premiums received from the commencement upon all Deferred Annuities.

9. The average rate of Interest at which the Life Assurance Fund of the Company was invested at the close of each year during the period since the last investigation.

10. A Table of Minimum Values, if any, allowed for the surrender of Policies for the whole term of life, and for Endowments and Endowment Assurances, or a statement of the method pursued in calculating such Surrender Values, with instances of its application to Policies of different standing, and taken out at various interval ages from the youngest to the oldest.

Separate statements to be furnished for business at other than European rates, together with a statement of the manner in which Policies on unhealthy lives are dealt with.

Building Societies Acts, 1874-1894.

FORM OF ANNUAL ACCOUNT AND STATEMENT to be made by a Society under the Building Societies Acts, prescribed for general use by the Chief Registrar of Friendly Societies, with the approval of the Secretary of State.

Statement of Accounts of the Building Society (incorporated 18 , and having its registered chief office or place of meeting at in the County of) for its th year, ending the day of 18 .

The number of Members of the Society is

1.—RECEIPTS AND PAYMENTS ACCOUNT.

Dr.	£	s.	d.	*Cr.*	£	s.	d.
To Balance (if any) at Bankers and in hand at beginning of year				By Balance (if any) due to Bankers at beginning of year			
To Cash received during year, viz.:— [Here are to be stated separately the amounts under each head of receipt.]	£	s.	d.	By Cash paid during year, viz.:— [Here are to be stated separately the amounts under each head of payment.]	£	s.	d.
To Balance (if any) due to Bankers at end of year				By Balance (if any) at Bankers and in hand at end of year			

2.—REVENUE (INCLUDING ACCRETIONS TO CAPITAL) AND EXPENDITURE ACCOUNT.

Balances at beginning of Year, as shown by last Annual Statement.	£	s.	d.	Additions during the Year. [Stating under each head the total amounts added, and not the excess of additions over diminutions.] Particulars.	Amount. £	s.	d.	Diminutions during the Year. [Stating under each head the total diminution, and not the excess of diminution over addition.] Particulars.	Amount. £	s.	d.	Balances at end of Year, as shown by Liabilities and Assets Account.	£	s.	d.
Due to Shareholders				Subscriptions of Shareholders ...				Withdrawals of Shareholders ...				Due to Shareholders (*e*)			
				Interest added ...				Interest paid							
				Other additions, viz. :—				Other diminutions, viz.:—							
Due to Depositors and other Creditors				New Deposits ...				Deposits withdrawn				Due to Depositors and other Creditors ...			
				Interest added ...				Interest paid... ...							
				Other additions, viz. :—				Other diminutions, viz.:—							
Undivided Profit, not including Prospective Interest				Fines and Fees ...				Management expenses, viz.:—				Undivided Profit, not including Prospective Interest (*g*)			
				Other sources of Profit, viz. :—											
(A)				(B)				(C)				(D)			

Total... ... £ Total... ... £

Due on Mortgage Securities, not including Prospective Interest	Advanced on Mortgage	Repayment of Advances	Due on Mortgage Securities, not including Prospective Interest (*h*)...
	Interest due from Borrowers ...	Interest received from Borrowers...	
	Other additions, viz.:—	Income from Properties in possession	
		Amount written off for Losses ...	
		Other diminutions, viz.:—	
Other Assets ...	Investments made, viz.:—	Investments realized, viz.:—	Other Assets (*i*) ...
Balance deficient (if any)	Interest on Investments	Interest received ...	Balance deficient (if any) (*k*) ... ...
	Other additions, viz.:—	Other diminutions, viz.:—	
(A)	(B)	(C)	(D)
Total... ... £		Total... ... £	

A and B added together must equal C and D added together.

All the "Totals" must agree.

Dr. LIABILITIES AND ASSETS ACCOUNT. : *Cr.*

To Liabilities to holders of Shares, viz. :—	£	s.	d.
[State the liabilities for each class of Share separately.]	Principal. £ s. d.	Interest. £ s. d.	
Paid-up Shares			
Preferential Shares ..			
Total... ...			(*e*)
To Liabilities to Depositors and other Creditors, viz.:—			
For Deposits payable at a fixed period ending within the next 12 months			
For Deposits payable at a fixed period ending after the next 12 months.			
For Deposits payable upon various times of notice, viz.:—			
Due to Bankers for Loans			
To other Creditors for Loans			
Other Liabilities, viz.:—			
Total... ...			(*f*)

By Balance due or outstanding on Mortgage Securities, not including Prospective Interest, viz.:—	£	s.	d.
	Principal. £ s. d.	Interest accrued (not Prospective). £ s. d.	
Mortgages from Members where the repayments are not upwards of 12 months in arrears, and the property has not been upwards of 12 months in possession of the Society:-			
On ____ Mortgages where the debt does not exceed £500.			
On ____ Mortgages where the debt exceeds £500 and does not exceed £1,000.			
On ____ Mortgages where the debt exceeds £1,000 and does not exceed £3,000.			
On ____ Mortgages where the debt exceeds £3,000 and does not exceed £5,000.			
On ____ Mortgages where the debt exceeds £5,000, as shown by Part I. of the Schedule.			
Total of Mortgages available under s. 14 of the Act of 1894			
[If the Society has any Mortgages from non-Members, the like particulars as above are to be given in full for all such Mortgages.]			

To undivided Profit (including Reserve Funds, but not including Prospective Interest), viz.:—

(g)

On ____ Mortgages on Property of which the Society has been upwards of 12 months in possession, as shown by Part II. of the Schedule ...

On ____ Mortgages where the repayments are upwards of 12 months in arrear, and the property has not been upwards of 12 months in possession of the Society, as shown by Part III. of the Schedule ...

Total number of properties mortgaged to the Society. (l)

Total (h)

By other Assets:—

Amount invested in the Funds (bearing interest at ____ per cent.) ...

Amount invested in other securities, viz.:—

Nature of Security.	Rate of Interest.
Other Assets, viz.:—	
Cash at Bankers	(i)
Cash in hands of ____	

By Balance Deficient (if any) ... ... (k)

(D) (D)

(D), (e), (f), (g), (h), (i), (k). These figures must agree with those in the last column of the Revenue and Expenditure Account.

(l). This figure must agree with that in the Certificate of the Auditors.

SCHEDULE.

Part I.

Particulars to be set forth in the case of every Mortgage where the Repayments are not upwards of Twelve Months in Arrears, and the Property has not been upwards of Twelve Months in the possession of the Society, and where the present Debt exceeds £5,000.

Date of Advance.	Whether subject to any prior Mortgage or Charge; if so, what Amount?	Whether Freehold, Copyhold, or Leasehold.	Original Valuation of Property.	Amount of Advance.	Present Debt.*	Amount of Payments in Advance.	Amount of Payments in Arrear.	Observations.
1.	2.	3.	4.	5.	6.	7.	8	9.
			£	£	£	£	£	
		Total ..						

* When the Mortgagor is not a member of the Society, an asterisk is to be placed against the amount of present debt.

Part II.

Particulars to be set forth in the case of Property of which the Society has been upwards of Twelve Months in possession.

Roll Numbers.	Date of Advance.	Date when Possession was taken.	Whether subject to any prior Mortgage or Charge; if so, what Amount.	Whether Freehold, Copyhold, or Leasehold.	Amount of Advance.	Original Valuation of Property.	Debt when Possession was taken.	Present Amount included in Assets.	Gross Income for the Year.	Outgoings for the Year.	Observations.
1.	2.	3.	4.	5.	6.	7.	8.	9.	10	11	12.
					£	£	£	£	£	£	
				Total .							

Part III.

Particulars to be set forth in the case of every Mortgage when the Repayments are upwards of Twelve Months in Arrear, and the Property has not been upwards of Twelve Months in possession of the Society.

Date of Advance.	Whether subject to any prior Mortgage or Charge; if so, what Amount?	Whether Freehold, Copyhold, or Leasehold.	Number of Months in Arrear.	Original Valuation of Property.	Amount of Advance.	Present Debt.	Amount of Payments in Arrear.	Observations.
1.	2.	3.	4.	5.	6.	7.	8.	9.
				£	£	£	£	
			Total .					

ELECTRIC LIGHTING ORDER (LICENSE).

THE *COMPANY.*

Year ending 31*st December*, 18 .

STATEMENT OF SHARE CAPITAL APPROPRIATED FOR THE PURPOSES OF THE UNDERTAKING AUTHORISED BY THE ABOVE-MENTIONED ORDER (LICENSE)

No. I. On the 31st December, 18 .

	Description of Capital.	Authorised by	Number of Shares issued.	Nominal Amount of Share.	Called up per Share.	Total Paid up.	Issued not Paid up.	Remaining Unissued.	Total Amount Authorised.

STATEMENT OF LOAN CAPITAL APPROPRIATED FOR THE PURPOSES OF THE UNDERTAKING AUTHORISED BY THE ABOVE-MENTIONED ORDER (LICENSE)

No. II. On the 31st December, 18 .

Description of Loan.	Amounts Borrowed.				Remaining Borrowing Powers.	Total Amount of Borrowing Powers.	
	At %.	At %.	At %.	Total.			

Total Share Capital Paid up, see No. I. ... ... £

,, Loan ,, Borrowed, see No. II.... ... £

Total Capital received ... ... £

Dr. CAPITAL ACCOUNT. Cr.

No. III. For the Year ending 31st December, 18 .

	Expenditure up to 31 Dec., 18 .	Expended during the Year.	Total Expenditure to 31 Dec., 18 .		Receipts up to 31 Dec., 18 .	Receipts during Year.	Total Receipts to 31 Dec., 18 .
	£ s. d.	£ s. d.	£ s. d.		£ s. d.	£ s. d.	£ s. d.
To expenditure to 31 Dec., 18 .				By Ordinary Shares of £ ...			
Expenditure since that date				,, do. do. of £ ...			
1. To Lands, including Law Charges incidental to acquisition.				,, Preference do. of £ ...			
2. To Buildings				,, Debenture Stock ...			
3. To Machinery				,, Mortgages and Bonds ...			
4. To Accumulators at Generating and Distributing Stations ...				,, Amounts Received in anticipation of Calls ...			
5. To Mains, including cost of laying the Mains				,, Sale of Patents or Patent Rights, &c. ...			
6. To Transformers, Motors, &c.				,, Other Receipts (to be Specified)			
7. To Meters, and Fees for certifying under the Act							
8. To Electrical Instruments, &c.							
9. To General Stores (Cable, Mains, Lamps).							
10. To purchase of Patents or Patent Rights ...							
11. To Cost of Licence, Provisional Order, &c.							
12. To Special Items ...							
Total Expenditure ...							
To Balance of Capital Account							
		£				£	

Provision for depreciation of works is made by a debit of £ to Revenue Account, transferred to Depreciation Fund Account, No. VII.

Dr. REVENUE ACCOUNT. Cr.

No. IV. For the Year ending 31st December, 18 .

	£ s. d.	£ s. d.		£ s. d.	£ s. d.
A.—*To generation of Electricity.*			1. By Sale of Current per Meter, at per B.T.U.		
1. To Coals or other Fuel, including Dues, Carriage, Unloading, Storing, and all Expenses of placing the same on the works.			2. By Sale under Contracts		
2. To Oil, Waste, Water, and Engine-room Stores			3. By Public Lighting		
3. To proportion of Salaries of Engineers, Superintendents, and Officers, as certified by the Managing Director, Chairman, or Engineer			4. By Rental of Meters and other Apparatus on Consumers' Premises ...		
4. To Wages and Gratuities at Generating Stations			5. By Sale and Repairs of Lamps, Arc or Incandescent		
5. To Repairs and Maintenance, as follows:—			By Sale and Repairs of other Apparatus		
£ s. d.			6. By Royalties, Licenses, &c.		
1. Buildings			7. By Rents Receivable		
2. Engines, Boilers			8. By Transfer Fees		
3. Dynamos, Exciters, Transformers, Motors, &c. ...			9. By other Items (to be specified) ...		
4. Other Machinery, Instruments, and Tools ...					
5. Accumulators and Accessories					
Less received for Old Material					
6. To Special Items					
Carried forward			Carried forward		

Dr. REVENUE ACCOUNT—*cont.* Cr.

No. IV.—*cont.*

	£ s. d.	£ s. d.		£ s. d.	£ s. d.
Brought over			Brought over		
B.—*To Distribution of Electricity.*					
1. To proportion of Salaries of Superintendents and Officers, as certified by Managing Director, Chairman, or Engineer					
2. To Wages and Gratuities to Linesmen, Fitters, Labourers					
3. To Repairs, Maintenance, and Renewals of Mains of all classes, including Materials and laying the same					
Less amounts refunded ...					
4. To Repairs, Maintenance, and Renewals of Transformers, Meters, Switches, Fuses, and other Apparatus on Consumers' premises ...					
5. To Repairs, Maintenance, and Renewals of Apparatus at Distributing Stations					
C.—*To Public Lamps.*					
1. To Attending and Repairs					
2. To Renewals of Lamps...					
Carried forward...			Carried forward		

Dr. REVENUE ACCOUNT—*cont.* Cr.

No. IV.—*cont.*

	£ s. d.	£ s. d.		£ s. d.	£ s. d.
Brought over			Brought over		
D.—*To Royalties, &c.*					
1. To Royalties, &c., payable for use of Patents or Patent Processes ...					
E.—*To Rents, Rates, and Taxes.*					
1. To Rents Payable					
2. To Rates and Taxes					
F.—*To Management Expenses.*					
1. To Directors' Remuneration... ...					
2. To Salaries of Managing Engineers, Secretary, Accountants, Clerks, Messengers, as certified by Managing Director, Chairman, or Engineer					
3. To Salaries or Commissions of Collectors					
4. To Stationery and Printing					
5. To General Establishment charges...					
6. To Auditors of Company					
7. To Auditor appointed under the provisions of the Order					
Carried forward... ...			Carried forward... ...		

Dr. REVENUE ACCOUNT—*cont.* Cr.

No. IV.—*cont.*

	£ s. d.	£ s. d.		£ s. d.	£ s. d.
Brought over			Brought over		
G.—*To Law and Parliamentary Charges.*					
1. To Law Expenses					
H.—*To Depreciation.*					
1. To Depreciation in respect of Leasehold Works					
2. To Depreciation in respect of Buildings...					
3. To Depreciation in respect of Plant, Machinery, &c.					
I.—*To Special Charges.*					
1. To Insurances, Superannuation, &c.					
2. To Expenses for Certification of Meters					
Total Expenditure ...					
Balance carried to Net Revenue...					
	£			£	

Dr. NET REVENUE ACCOUNT. Cr.

No. V.

	£ s. d.		£ s. d.	£ s. d.
1. To Interest on Debentures accrued due to date		1. By Balance from last Account... ...		
2. To Interest on Mortgages and Bonds accrued due to date...		*Less* Dividend paid...		
3. To Interest on Temporary Loans accrued due to date...		By Amount carried to Reserve Fund ...		
4. To Dividend on Preference Stocks ...		2. By Balance brought from Revenue Account (No. IV.)		
5. To Balance applicable to Dividend on Ordinary Stock or Shares		3. By Interest on Money at Deposit ...		
	£			£

FF

Dr. RESERVE FUND ACCOUNT. Cr.

No. VI.

	£ s. d.		£ s. d.
1. Amount paid out for		1. By Balance brought from last Account ...	
2. Amount of Balance to next Account		2. By Amount brought from Net Revenue Account	
		3. By Interest on Amount Invested ... ... (Description of Investments to be specified).	
	£		£

Dr. DEPRECIATION FUND ACCOUNT. Cr.

No. VII.

	£ s. d.		£ s. d.
1. To Balance		1. By Balance from last Account	
		2. By Interest on Investments	
		3. By Amount brought from Revenue Account (*see* No. IV. H.)... ... ... (Description of Investments to be specified.)	
			£

Dr. Cr.

No. VIII. GENERAL BALANCE SHEET.

Liabilities.	£	*s.*	*d.*	*Assets.*	£	*s.*	*d.*	£	*s.*	*d.*
1. To Capital Account: Amount Received, as per Account No. III.				1. By Capital Account: Amount Expended for Works, as per Account No. III.						
2. To Sundry Tradesmen and others, due on Construction of Plant and Machinery, Fuel, Stores, &c., to 31st December, 18				2. By Stores on Hand at 31st December, 18 :—	£	*s.*	*d.*			
				Coal						
				Oils, Waste, &c.						
				General						
3. To Sundry Creditors on Open Accounts ...				3. By Sundry Debtors, for Amounts Paid on account of Contracts in course of completion						
4. To Net Revenue Account: Balance at Credit thereof				4. By Preliminary Expenses						
5. To Reserve Fund Account				5. By Sundry Debtors, for current supplied to 31st December, 18						
6. To Depreciation Fund Account				6. By Other Debtors						
				7. By Cash at Bankers :— ...	£	*s.*	*d.*			
				Messrs.						
				Messrs.						
				Messrs. (Amount on deposit)						
				8. By Cash in Hand						
	£							£		

_____ *March*, 18 .

_____ *Chairman.*

_____ *Manager and Secretary.*

FF 2

Friendly Societies Act, 1896.

59 & 60 Vict., c. 25.

ANNUAL RETURN PRESCRIBED BY THE CHIEF REGISTRAR FOR A REGISTERED FRIENDLY SOCIETY.

Year ending 31st December, 190 .

[*The Society's Balance Sheet cannot be accepted as a substitute for this Return.*]

This Return is to be sent to the Registrar not later than the 31st of May.

A copy of the Auditors' Report, if any, should also be sent.

This portion is to be filled up whether Form A or Form B is adopted.

Name of Society

Date of commencement of Society 18 .

When first Enrolled, Certified, or Registered 18 .

Names and addresses of Trustees { Residing at / Residing at / Residing at

Name and Address of Treasurer Residing at

Amount of Security given by him ... ... £

Number of Benefit Members at the beginning of the year ... ...

Number of Benefit Members admitted during the year ... ...

Together

Number of Benefit Members who died during the year ... ...

Number of Benefit Members who left from other causes ... ...

Total number of Benefit Members at the end of the year ... ...

Of whom were under 16 years of Age.
between 16 and 20 years of Age.
,, 20 and 50 ,, ,,
,, 50 and 65 ,, ,,
over 65 years of Age. The Benefits the Members over 65 are entitled to are

Average amount of Funds per Member [that is, the total Funds on the 31st December, 19 , divided by the total number of Benefit Members] ... ... £

The Audit for the year has been conducted by Mr. , Public Auditor, [*or* by , who were appointed Auditors by under the authority of Rule No.].

Registered Office of the Society* in the county of

Date 19 .

* State full postal address.

FORM A.—FOR SOCIETIES WHOSE MEMBERS PAY ONLY ONE CONTRIBUTION FOR ALL BENEFITS.

(A.) BENEFIT FUND.

Income.	£	s.	d.	*Expenditure.*	£	s.	d.	£	s.	d.	
Contributions				Sums at Death. Sickness Pay. { weeks pay to Members on full pay (lasting by Rules weeks)							
Levies (if any)				{ weeks pay to Members on reduced pay (1st period, lasting weeks) ...							
[If for more than one purpose, state on separate lines the amount raised for each.]				{ weeks pay to Members on reduced pay (2nd period, lasting weeks) (*e*)							(*e*) If any further reductions they should be stated separately.
Fines (not appropriated to Management Fund) ...				{ of Members and Children of Members *above* 10 *years of age*							
Entrance Fees (not appropriated to Management Fund)				{ of [Wives or Husbands] of Members							
Interest on Investments of Benefit Fund				{ of Children *under* 5 *years of age* ...							
(*a*) Specify their nature. Other Receipts (*a*)				{ of Children *between* 5 *and* 10 *years of age*							
				Cost of Medical Aid							
				Payments for other Benefits (if any) (*f*)... ...							(*f*) State separately the expenditure for each.
				Other Payments (if any) (*g*)							
Total Income				Total Expenditure							(*g*) Specify their nature.
Amount of Benefit Fund at the beginning of the year				Amount of Benefit Fund at the end of the year, as per Balance Sheet (C)							
Total ... ... £				Total ... ... £							

(B.) MANAGEMENT FUND.*

* If the Society was registered before 23rd July, 1855, and has no separate Management Fund provided for in its Rules, state the fact.

Income.	£	s.	d.	*Expenditure.*	£	s.	d.	£	s.	d.	
Donations of Honorary Members to this Fund ...				Salaries							
Contributions of Members for Management ...				Rent							
Levies upon Members for Management				Printing, Stationery, and Postage ...							
Entrance Fees...				Other Payments (if any) (*h*)							(*h*) Specify their nature.
Fines appropriated to this Fund by the Society's Rules				Total Expenses of Management ...							
Interest on Investments of Management Fund ...				Bad Debts and Losses (*h*)							
(*b*) Specify their nature. Other Receipts (if any) (*b*)				Total Expenditure							
Total Income				Amount of Management Fund at the end of the year, as per Balance Sheet (C)							
Amount of Management Fund at the beginning of the year				Total ... ... £							
Total ... ... £											

Dr. (C.) BALANCE SHEET OF FUNDS AND EFFECTS. *Cr.*

	£ s. d.		Rate per cent. of interest yielded.	£ s. d.	
Amount of Benefit Fund (as above)		Investments—			
Amount of Management Fund (as above) ..		1. In the Savings Bank			
Debts (if any) legally incurred by Trustees on		2. In the Public Funds (*i*)			(*i*) State amount and description of stock.
(*e*) Specify their nature. behalf of the Society (*e*)		3. With the Commissioners for the Reduction of the National Debt ...			
Cash due to Treasurer (if any)		4. Upon Government Securities in Great Britain or Ireland			
(*d*) Specify them. Other Liabilities (*d*)		5. Upon Real Securities in Great Britain or Ireland			
		6. In Land			
		7. On other Securities (*k*)			(*k*) State them separately.
		Cash in the Post Office Savings Bank . .			
		Cash in hand (*l*)			(*l*) State in whose hands.
		Other Assets (if any) (*m*)			(*m*) Specify them.
Total ... ... £		Total ... ... £			

Signature of Treasurer Signature of Secretary Residing at* *Give Postal Address.

The undersigned, having had access to all the Books and Accounts of the Society, and having examined the foregoing General Statement and verified the same with the Accounts and Vouchers relating thereto, now sign the same as found to be correct, duly vouched, and in accordance with law.

Signature of 1st Auditor [or of Public Auditor] Signature of 2nd Auditor

Address Address Date 190 .

Calling or Profession Calling or Profession

N.B.—Societies to which this Form applies need not fill up Form A.

Form B.—FOR SOCIETIES WHOSE MEMBERS PAY MORE THAN ONE CONTRIBUTION FOR BENEFITS.

(D.) Benefit Funds.

Income. *Expenditure.*

Where these contributions are not divided the lines may be bracketed together.

	£	s.	d.
Entrance Fees (belonging to Benefit Funds) ...			
Contributions of Members (Total)			
divided as under:—	£	s.	d.
For Sickness			
For Sums at Death			
For Old Age Pay			
For Widows and Orphans' Allowances			
For Lying-in			
For Accidents			
For Travelling Benefit			
For Distress Relief			
For Medical Aid			
(1) Other benefits (if any) for which separate contributions are paid should be stated separately — For (1)			
For			
For			
Total as shown above £			
Levies (state for what purpose)			
Fines belonging to Benefit Funds			
Interest on Investments of Benefit Funds ...			
(2) Specify their nature. Other Receipts (if any) (2)			
Total Income... ...			
Amount of Benefit Funds at the beginning of the year...			
Total £			

	£	s.	d.
Sums at Death Sickness Pay — weeks pay to Members on full pay (lasting by Rules weeks)			
weeks pay to Members on reduced pay (1st period lasting weeks)			
weeks pay to Members on reduced pay (2nd period lasting weeks) (7) ...			
of Members and Children of Members *above 10 years of age*			
of Wives [or Husbands] of Members ...			
of Children *under 5 years of age* ...			
of Children *between 5 and 10 years of age*			
Old Age Pay			
Widows' and Orphans' Allowances			
Lying-in Pay			
Accident Allowances			
Travelling Benefit			
Distress Relief			
Medical Aid			
Payments for other Benefits (if any) (8) ...			
Other payments (if any) (9)			
Total Expenditure			
Amount of Benefit Funds at the end of the year, as per Balance Sheet (F)			
Total £			

(7) If any further reductions they should be stated separately.

(8) State separately the expenditure for each

(9) Specify their nature.

(E.) Management Fund.*

Income. *Expenditure.*

* If the Society was Registered before 23rd July, 1855, and has no separate Management Fund provided for in its Rules, state the fact.

	£	s.	d.
Donations of Honorary Members appropriated to this Fund			
Contributions of Members for Management ...			
Levies upon Members for Management ...			
Entrance Fees			
Fines appropriated to this Fund by the Society's Rules			

	£	s.	d.
Salaries...			
Rent			
Printing, Stationery, and Postage...			
Other Payments (if any) (10) ...			
Total Expenses of Management			

(10) Specify their nature.

		£	s.	d.				
(3) Specify their nature.	Interest on Investments of Management Fund				Bad Debts and Losses (10)				(10) Specify their nature.
	Other Receipts (if any) (3)								
	Total Income				Total Expenditure ...				
	Amount of Management Fund at the beginning of the year				Amount of Management Fund at the end of the year, as per Balance Sheet (F)				
	Total ... ... £				Total ... ... £				

Dr. (F.) BALANCE SHEET OF FUNDS AND EFFECTS. *Cr.*

		£	s.	d.			£	s.	d.	
	Total Benefit Funds [as per Account (D)] divided as under:—					Rate per cent. of interest yielded.				
(4) Where these funds are not divided the lines may be bracketed together.	Sickness Fund (4)				Investments:					
	Death Fund				1. In the Savings Bank ...					
	Old Age Fund				2. In the Public Funds (11)					(11) State amount and description of stock.
	Widows' and Orphans' Fund ...				3. With the Commissioners for the Reduction of the National Debt					
	Lying-in Fund				4. Upon Government Securities in Great Britain or Ireland ...					
	Accident Fund				5. Upon Real Securities in Great Britain or Ireland					
	Travelling Benefit Fund				6. In Land					
	Distress Relief Fund				7. On other Securities (12)					(12) State them separately.
[If there are other benefit funds, state each separately.]	Medical Aid Fund									
	Total Benefit Funds [as shown above] £									
	Amount of Management Fund [as Account (E)]				Cash in the Post Office Savings Bank					
(5) Specify their nature.	Debts (if any) legally incurred by Trustees on behalf of the Society (5)				Cash in hand (13)					(13) State in whose hands
	Cash due to Treasurer (if any)									
(6) Specify them.	Other liabilities (if any) (6)				Other Assets (if any) (14)					(14) Specify them.
	Total ... ... £				Total ... ... £					

Signature of Treasurer Signature of Secretary Residing at* *Give Postal Address.

The undersigned, having had access to all the Books and Accounts of the Society, and having examined the foregoing General Statement, and verified the same with the Accounts and Vouchers relating thereto, now sign the same as found to be correct, duly vouched, and in accordance with law.

Signature of 1st Auditor [or of Public Auditor] Signature of 2nd Auditor

Address Address Date 190 .

Calling or Profession Calling or Profession

If the Accounts are not audited by a Public Auditor *appointed under the Friendly Societies Act*, two persons, at least, must be appointed as Auditors.

If in any respect these Accounts are incorrect, unvouched, or not in accordance with law, *the Auditors are not to sign as above*, but are to make a Special Report to the Society, of which a copy is to be sent to the Registrar with this Statement.

Collecting Societies and Industrial Assurance Companies Act, 1896.

59 & 60 Vict., c. 26.

ANNUAL RETURN PRESCRIBED BY THE CHIEF REGISTRAR FOR A REGISTERED COLLECTING SOCIETY.

Year ending 31st December, 190 .

This Return is to be sent to the Registrar not later than 31st May following.

A copy of the Auditors' Report, if any, should also be sent.

Name of Society

Date of commencement of Society 18 .

When first Enrolled, Certified, or Registered 18 .

Names and addresses of Trustees ... ... Residing at / Residing at / Residing at

Name and address of Treasurer and of any other Officer in receipt or charge of money... Residing at / Residing at

[If the names are more than can be conveniently inserted here, they may be added (with the amount of security given) on a separate sheet.]

Amount of Security given by him or them ... ... £

Number of Benefit Members at the beginning of the year ... ...

Number of Benefit Members admitted during the year ... ...

Together

Number of Benefit Members who died during the year ...

Number of Benefit Members who left from other causes ...

Total number of Benefit Members at the end of the year ... ...

Average amount of Funds per Member [that is, the total Funds on 31st December, 1900, divided by the total number of Benefit Members] ... ... £

Number of Notices of forfeiture during the year ... ...

Number of cases of forfeiture of benefit after notice ... ...

Dates of the General Meetings held during the year ... ...

Number of transfers to the Society of which it has given notice to the Society from which the transfer was sought ... ...

Number of transfers from the Society of which it has received notice from the Society by which the transfer was sought ... ...

The Audit for the year has been conducted by Mr. , Public Auditor, [*or* by who were appointed Auditors by under the Authority of Rule No.].

Registered Office of Society* , in the County of

Date 1901.

N.B.—The Society's Balance Sheet cannot be accepted as a substitute for this return, although, if made up to the 31st December, the items composing it may, if applicable, be inserted in the return.

* State full postal address.

General Account.

Income.	£	*s.*	*d.*
Contributions under Tables :—			
For Sickness			
Sums at Death			
Annuities			
Endowments			
Medical Aid			
Other Benefits (specify them) :—			
Contributions for Management			
Entrance Fees			
Fines			
Donations of Honorary Members			
Interest on Investments			
Amount received for copies of Rules at 1d. each ...			
Amount received for Policies at 1d. each			
Other Receipts (specify them) :—			
Total			
Amount of Benefit Funds at beginning of year			
Total ... ... £			

Expenditure.	£	*s.*	*d.*
Sickness Pay. — weeks pay to members on full pay (lasting by rules weeks)			
Sickness Pay. — weeks pay to members on reduced pay (1st period lasting weeks)			
Sickness Pay. — weeks pay to members on further reduced pay			
Sums at Death. — Of members and children of members *above 10 years of age* :—			
Full sums assured			
Grants or other diminished payments			
Sums at Death. — Of wives [*or* husbands] of members :—			
Full sums assured			
Grants or other diminished payments			
Sums at Death. — Of children *under 5 years of age* :—			
Full sums assured			
Grants or other diminished payments			
Sums at Death. — Of children *between 5 and 16 years of age* :—			
Full sums assured			
Grants or other diminished payments			
Annuities			
Endowments			
Cost of Medical Aid			
Other payments (specify them) :—			
Amount transferred to Management Fund			
Total			
Amount of Benefit Funds at end of year, as per Balance Sheet			
Total ... ... £			

Management Fund.

Income.	£	*s.*	*d.*
Amount transferred from General Account, as detailed below (A) :—			
per cent. on New Members' Contributions, under Table No. ... ... (£ *s.* *d.*)			
Under Table No.			
Under Table No.			
Under Table No.			
Under Table No.			
per cent. on other Members' Contributions, under Table No.			
Under Table No.			
Under Table No.			
Under Table No.			
Under Table No.			

Expenditure.	£	*s.*	*d.*
Salaries of Committee and Treasurer			
Salaries of Secretary, Clerks, and Servants			
Commission at per cent. and other remuneration of Agents and Collectors			
Travelling Expenses			
Law Charges			
Actuarial Fees			
Remuneration of Auditors			
Rent and Taxes			
Printing			
Stationery			
Postage and Carriage of Parcels			
Other Payments (specify them) :—			

Entrance Fees (under authority of Rule) ...						Bad Debts and Losses			
Fines (under authority of Rule)									
Donations of Honorary Members									
Interest on Management Fund									
copies of Rules at 1d. each									
Policies at 1d. each									
Other Transfers (sepcify them):—									
Total as shown above (A) ...						Total			
Total						Amount of Management Fund at end of year, as per Balance Sheet			
Amount of Management Fund at beginning of year ...						Total ... ... £			
Total ... ... £									

BALANCE SHEET OF FUNDS AND EFFECTS.

Liabilities.	£	*s.*	*d.*	*Assets.*	Rate per cent of interest yielded.	£	*s.*	*d.*
Amount of Sickness Fund				Investments:—				
Amount of Death Fund				1. In the Savings Bank ...				
Amount of Annuity Fund				2. In the Public Funds (specify them):—				
Amount of Endowment Fund				3. With the Commissioners for the Reduction of the National Debt				
Amount of Medical Aid Fund				4. Upon Government Securities in Great Britain or Ireland				
Amount of other Funds (if any) (specify them):—				5. Upon Real Securities in Great Britain or Ireland				
Total Amount of Benefit Funds				6. In the purchase of land				
Amount of Management Fund				7. In the erection of offices and buildings ...				
Debts (if any) legally incurred by Trustees on behalf of the Society				8. On other securities (specify them):—				
Cash due to Treasurer (if any)				Cash in the Post Office Savings Bank				
Other Liabilities (if any) (specify them):—				Cash in hand of				
Total ... £				Other Assets (if any) (specify them):—				
				Total ... £				

Signature of Treasurer or one of the Trustees

Signature of Secretary , residing at (1) (1) State Postal Address

The undersigned, having had access to all the Books and Accounts of the Society, and having examined the foregoing General Statement [with additional sheet appended thereto], and verified the same with the Accounts and Vouchers relating thereto, now sign the same as found to be correct, duly vouched, and in accordance with law.

Signature of 1st Auditor [or of Public Auditor]

Address

Calling or Profession

Signature of 2nd Auditor

Address

Calling or Profession

Date 190 .

If in any respect these Accounts are incorrect, unvouched, or not in accordance with law, *the Auditors are not to sign as above*, but are to make a special report to the Society, of which a copy is to be sent to the Registrar with this Statement.

If the Accounts are not audited by a Public Auditor, appointed under the Friendly Societies Act, *two persons at least must be appointed as Auditors.*

I certify that the particulars on this page, and on the three preceding pages [and in the additional sheet appended hereto] are correctly stated, and that I am not an Officer of the Society, otherwise than as Auditor, and carry on publicly the business of an Accountant at No. , Street, (2) (2) Give full address.

Signature of Public Accountant Date 190

Industrial and Provident Societies Act, 1893.

56 & 57 Vict., c. 39.

ANNUAL RETURN PRESCRIBED BY THE CHIEF REGISTRAR FOR SOCIETIES CARRYING ON INDUSTRIES AND TRADES UNDER THE ABOVE ACT.

Year ending 31st December, 1900.

This Return is to be sent to the Registrar on or before the 31st of March, 1901.

A copy of the Auditors' Report, if any, is also to be sent.

Name of Society , Limited.
Industries carried on by Society (Productive)
Trades carried on by Society (Distributive)
Date of establishment 18 .
When first Registered 18 .
Name and Address of every Officer in receipt or charge of money, and amount of Security given by each ... ... £ £ £

Number of Members at the beginning of the year ... ...
Number of Members admitted during the year ... ...

Together

Number of Members whose membership has ceased during the year ... ...

Number of Members at the end of the year ... ...

Do the Rules of the Society allow of Credit being given? If so, state the number of the Rule
Does the Society give Credit? If so, to what limit?
The Audit for the year has been conducted by Mr. , Public Auditor [*or* by who were appointed Auditors by under the authority of Rule No. .]
Registered office of Society* in the County of
Date 1901.

PARTICULARS of PRODUCTIVE OPERATIONS Carried on by the Society during the Year.

Value of Productions for the year (Cost Price) ... £ .
Average Number of Workmen employed ... .
Amount of Wages paid (exclusive of Bonus) ... ... £ .
Bonus to Labour ... ... £ .

Details of the above Particulars in respect of the various Departments of the Society:—

Department.	Value of Productions.	Average Number of Workmen employed.	Amount of Wages paid.	Bonus to Labour.	Observations.
	£		£	£	
[Here specify the Department.]					
Total as above					

* State full postal address.

Dr. I. CASH ACCOUNT. *Cr.*

RECEIPTS.	£	*s.*	*d.*	PAYMENTS.	£	*s.*	*d.*
Share Contributions				Share Capital Repaid			
Loans...				Interest on Shares			
Deposits and Small Savings Department				Dividend to Members			
Sales of Goods				,, Non-members			
Rents...				Loans			
Fees and Fines: Entrance, Nomination, Withdrawal				Deposits and Small Savings Department			
Rules and Pass or Contribution Books...				Interest on Loans and Deposits and Bank Current Advances			
Interest and Profits on Investments ...				Goods, including Carriage			
Dividend on Purchases				Expenses of Management:—			
Educational Purposes				Salaries and Wages			
Investments —Deposits and Repayments of Advances on Security of Freehold or Leasehold Property				Rent, Rates, Taxes, and Insurance .			
Other Investments Realised or Advances repaid				Other Expenses			
Other Receipts (if any) (1):—				For Land, Buildings, and Fixtures:—			
				For Trade Purposes			
				For other Purposes			
				Advances on Security of Freeholds or Leaseholds			
				Other Advances or Investments... ...			
				Educational Purposes			
				Subscriptions to Charitable and other Objects...			
				Other Payments (if any) (1):—			
Total Receipts... ...				Total Payments... ...			
Balance (if any) due to Bankers at end of year				*Balance (if any) due to Bankers at beginning of Year*			
Balance of Cash in Hand and at Bank at beginning of year				Balance of Cash in Hand and at Bank at end of Year, as per Balance Sheet (III.)			
Total ... £				Total ... £			

(1) To be specified.

(1) To be specified.

II. GENERAL ACCOUNTS.—(A) Trade of Year.

INCOME.	£	*s.*	*d.*	EXPENDITURE.	£	*s.*	*d.*
Value of Stock-in-Trade at beginning of Year...				Value of Stock-in-Trade at end of Year			
Purchases during Year, including Carriage				Sales of Goods during Year			
(2) Productive Expenses incurred in the Industries carried on by the Society .				Dividend on Purchases			
(2) Distributive Expenses incurred in the Trades carried on by the Society ...							
Interest on Loans, Deposits, and Bank Current Advances							
Depreciation — Land, Buildings, and Fixtures							
Balance Profit on Trade of Year, to Account B.				Balance Loss on Trade of Year, to Account B.			
Total ... £				Total ... £			

(2) These amounts should include Salaries and Wages and all other Productive or Distributive Expenses, respectively, incurred during the Year.

B.—Profit and Loss.

Dr.	£	*s.*	*d.*	*Cr.*	£	*s.*	*d.*
Balance of Loss brought forward from last year				Balance of Profit brought forward from last year			
Loss on Trade of Year, from Account A				Profit on Trade of Year, from Account A			
Bad Debts				Interest and Profits on Investments ...			
Expenses not chargeable to Trade (specify them)				Fees and Fines: Entrance, Nomination, Withdrawal			
				Other Credits (if any), specify them ...			
Balance disposable to Account C ...				Balance of Loss, as per Account III. ...			
Total ... £				Total ... £			

C.—Application of Profit.

	£	*s.*	*d.*		£	*s.*	*d.*
Interest on Shares				Balance Disposable from Account B ...			
Dividends on Purchases :—							
To Members							
,, Non-members							
Bonus to Employés							
Donations and Subscriptions							
Educational Purposes							
Reserve Fund							
Other Applications...							
Profit carried to next Year, as per Account III.							
Total ... £				Total ... £			

III.—Balance Sheet of Funds and Effects.

	£	*s.*	*d.*		£	*s.*	*d.*
Due to Shareholders				Value of Stock-in-Trade (as in Account A)			
Due to Depositors and Other Creditors :—				Buildings, Fixtures, and Land used in Trade			
	£	*s.*	*d.*	Investments and other Assets:—	£	*s.*	*d.*
Loans				In Buildings, Fixtures, & Land			
Deposits and Small Savings Department				On Freehold or Leasehold Security			
Bank Advances				On Loans or Deposits			
Cash due to Treasurer				In Shares of Industrial and Provident Societies			
Trade Debts				In other Shares (2) :—			
Other Liabilities (1) :—				Other Investments (2) :—			
				Other Securities or Assets (2) :—			
Profits appropriated but not yet paid, included in Account C				Amount (if any) owing by Members at end of Year ...			
Total				Cash in Bank			
				,, hand (3)			
Reserve Fund				Total			
Profit carried to next Year, as per Account C				Loss carried to next Year, as per Account B			
Total							
Total Liabilities ... £				Total Assets ... £			

(1) To be specified.

(2) State them separately.

(3) State in whose hands.

Signature of Treasurer . Signature of Secretary Residing at

The undersigned, having had access to all the Books and Accounts of the Society, and having examined the foregoing General Statement, and verified the same with the Accounts and Vouchers relating thereto, now sign the same as found to be correct, duly vouched, and in accordance with law.

Signature of 1st Auditor
[or of Public Auditor]
Address
Calling or Profession

Signature of 2nd Auditor

Address
Calling or Profession

Date 190 .

If the Accounts are not audited by a Public Auditor, *appointed under the Industrial and Provident Societies Act*, two persons, at least, must be appointed as Auditors.

If in any respect these Accounts are incorrect, unvouched, or not in accordance with law, *the Auditors are not to sign as above*, but are to make a Special Report to the Society, of which a copy is to be sent to the Registrar with this Statement.

Receipts and Payments Account (Pro Formâ) of a Mining Company.

Particulars of Receipts.	Receipts previous to period under Audit.			Receipts for period under Audit.			Total Receipts to date.			Particulars of Payments.	Expenditure previous to period under Audit.			Expenditure for period under Audit.			Total Expenditure to date.		
	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*		£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*
Shareholders' Capital										Purchase of Mine, Buildings, Plant, &c.									
Mortgages										Plant and Machinery									
Debentures										Wages									
Sales										Royalties									
Freight and Wagons										Stores									
Transfer Fees										Directors' Fees, Salaries, and Office Expenses									
										Furniture, Fittings, Fixtures, &c.									
										Freight, Carriage, &c.									
										Wagon Hire and Instalments on Wagons on Purchase Lease...									
										Interest on Mortgages and Debentures									
										Dividends to Shareholders ...									
										Preliminary Expenses									
										Balance at Bankers and in hand									

Revenue Account (Pro Formâ) of a Mining Company.

Divided into three Sections, as recommended on page 270.

	£	s.	d.		£	s.	d.
To Stock of Minerals on hand (at commencement of period)				By Sales			
,, Stores on hand (at commencement of period)				,, Stock of Minerals on hand (at end of period)			
,, Wages				,, Stores on hand (at end of period)			
,, Royalties							
,, Stores purchased							
,, Balance carried down, being the gross Profit							
,, Directors' Fees				,, Balance brought down			
,, Salaries				,, Transfer Fees			
,, Rent, Rates, &c.				,, Extra Earnings of Wagons (including proportion of instalments paid on Wagons on Purchase Lease charged against Revenue)			
,, Office Expenses							
,, Interest on Mortgages							
,, Interest on Debentures							
,, Amount written off for Depreciation on Buildings, Plant, &c.							
,, Bad Debts							
,, Amount written off Preliminary Expenses Account							
,, Balance carried down, being the net Profit for the period				,, Balance carried down, being the net Loss for the period			
,, Balance brought down, being the net Loss for the period				,, Balance brought down, being the net Profit for the period			
,, Balance brought from previous Revenue Account (deficiency at that date)				,, Balance brought from previous Revenue Account (surplus at that date)			
,, Interim Dividend							
,, Proposed Dividend at per cent. per annum							
,, Balance carried to Balance Sheet, being amount of Undivided Profit at end of the period				,, Balance carried to Balance Sheet, being deficiency at this date			

Balance Sheet (Pro Formâ) of a Mining Company.

	£	s.	d.	£	s.	d.		£	s.	d.	£	s.	d.
To Capital—							By Debtors						
Authorised issue—							,, Bills receivable on hand						
.....Shares of £...each: £.....							,, Cash at Bankers						
Subscribed—							,, Cash in hand						
.....Shares...							,, Stock of Minerals, at cost price ...						
Less Amount uncalled							,, Colliery Stores do.						
,, Calls in Arrear ...							,, Office Furniture						
,, Mortgagees							,, Purchase of Mine, Buildings, Plant, &c.—						
,, Debenture Holders							Balance of this Account						
,, Creditors—							Additions to do.						
On Open Accounts							Less per cent. written off for depreciation						
,, Bills Payable							,, Instalments on Wagons, on Purchase Lease, after deducting amount charged against Revenue Account...						
,, Shareholders' Interest—							,, Preliminary Expenses—						
Outstanding							Balance of this Account						
,, Balance brought from Revenue Account, being the surplus or amount of Undivided Profit at this date ...							Less th of original Amount ...						
							,, Balance brought from Revenue Account, being the deficiency at this date						

The Companies Act, 1862.

Form E, as required by the second part of the Act.

(Section 26.)

Summary of Capital and Shares of the Company, made up to the day of

Nominal Capital £ divided into Shares of £ each.

Number of Shares taken up to the day of

Of which Shares were issued for cash.

Of which Shares were issued on which £ was deemed to have been paid.

There has been called up on each Share £

Total Amount of Calls received £

Total Amount of Calls unpaid £

The total amount of debt due from the Company in respect of all Mortgages and Charges registered as required by the Companies Act, 1900, is £ .

List of Persons holding Shares in the Company on the day of , and of Persons who have held Shares therein at any Time during the Year immediately preceding the said day of , showing their Names and Addresses, and an Account of the Shares so held.

Folio in Register Ledger containing Particulars.	Names, Addresses, and Occupations.				Account of Shares.					Remarks.
	Surname.	Christian Name.	Address.	Occupation.	Shares held by existing Members on the day of	Additional Shares held by existing Members during preceding Year.		Shares held by Persons no longer Members.		
						Number.	Date of Transfer.	Number.	Date of Transfer.	

The Companies Act, 1862.

FORM OF STATEMENT (or as near thereto as circumstances will admit) to be made by every Limited Banking Company, Insurance Company, and Deposit, Provident, or Benefit Society, under this Act, before they commence business, and the first Monday in February and August, and a copy of which has to be put up in a conspicuous place in the registered office and in every branch office or place of business.

(See Section 44.)

* The Capital of the Company is divided into Shares of each.

The number of Shares issued is

Calls to the amount of pounds per Share have been made, under which the sum of pounds has been received.

The liabilities of the Company on the first day of January (or July) were—

Debts owing to Sundry persons by the Company

On judgment £ .
On speciality £ .
On notes or bills £ .
On simple contracts £ .
On estimated liabilities £ .

The Assets of the Company on that day were—

Government Securities [stating them], £ .
Bills of Exchange and Promissory Notes, £ .
Cash at the Bankers, £ .
Other Securities, £ .

* If the Company has no capital divided into Shares, the portion of the Statement relating to Capital and Shares must be omitted.

The Industrial and Provident Societies Act, 1876.

FORM OF STATEMENT TO BE MADE OUT BY A SOCIETY CARRYING ON THE BUSINESS OF BANKING.

(See Section 10.)

1. Capital of the Society :—
   (*a.*) Amount of each Share.
   (*b.*) Number of Shares issued.
   (*c.*) Amount paid up on Shares.
2. Liabilities of the Society on the first day of January (or July) last previous :—
   (*a.*) On judgments.
   (*b.*) On speciality.
   (*c.*) On notes or bills.
   (*d.*) On simple contract.
   (*e.*) On estimated liabilities.
3. Assets of the Society on the same date :—
   (*a.*) Government Securities (stating them).
   (*b.*) Bills of Exchange and Promissory Notes.
   (*c.*) Cash at the bankers.
   (*d.*) Other securities.

Conditions under which Public Auditors will hold their Appointments under the Friendly Societies Act, 1896, and the Industrial and Provident Societies Act, 1893.

1. Public Auditors are appointed to act in England and Wales, Scotland or Ireland. They will not, however, be ranked as public servants, and will have no salaries, nor any claim to pension or gratuity. Nor are they to assume the title of "Government Auditors" or any similar one: but are simply to describe themselves as "Public Auditors under the Friendly Societies Act, 1896, and the Industrial and "Provident Societies Act, 1893." Public Auditors are not permitted to make use of the Royal Arms.

2. The Public Auditor is bound to accept for audit (except as hereinafter mentioned) the account of any Society within that portion of the United Kingdom for which he is appointed, registered either under the Friendly Societies Act or the Industrial and Provident Societies Act, which applies to him (the term "Society" to include a branch of a Society), for the fees hereafter mentioned, the Society complying with the terms of these instructions. But no Public Auditor can audit the accounts, balance-sheet, or annual return of any Society of which he is Accountant, or any account, balance-sheet, or annual return which he has himself prepared.

3. A Society desirous of submitting its accounts to a Public Auditor must forward all the necessary materials to his office or place of residence, in order to save travelling expenses and loss of time. It will be the duty of the Auditor, when applied to, to impress this upon the Society. He is not bound to leave his office for the purpose of the audit.

4. The Society must, at the same time, forward to the Auditor the annual return or general statement of the receipts and expenditure, funds and effects of the society, made up in the form for the time being required under the Friendly Societies Act, 1896, or the Industrial and Provident Societies Act, 1893, as the case may be.

5. The Auditor is to verify the annual return with the accounts and vouchers relating thereto, and either to sign the same as found by him to be correct, duly vouched, and in accordance with law, or specially to report to the Society in what respects he finds it incorrect, unvouched, or not in accordance with law.

6. The work of the Auditor will be strictly confined to auditing, but he has under the Acts a right of access to all the books and accounts of the Society. In the event of his discovering errors in the annual return, or the books, accounts, or vouchers submitted to him, they are to be returned (at the cost of the Society) for correction, unless the Auditor be requested by the Society to correct the inaccuracies, in which case he is entitled to claim an additional fee, to be arranged between him and the Society.

7. The Auditor shall, in all cases, make a Report to the Society upon the accounts and other documents submitted to him, and, in case he has called for explanations or information from the Directors or Committee of Management, he shall state whether such explanations or information have been given, and whether they have been satisfactory.

8 & 9. Rates of payment:—(See Pages 34 and 35).

10. Auditors shall hold their appointments from year to year, beginning on the first day of January in each year. The Treasury reserves to itself entire discretion as to re-appointing them.

11. They shall send in half-yearly to the Chief Registrar of Friendly Societies a list containing the names of the Societies audited by them during the previous half-year, and the fees received from each Society, distinguishing Societies under the Friendly Societies Act from Societies under the Industrial and Provident Societies Acts.

12. The scales of fees above laid down will only remain in force from year to year. At the end of any year they may be confirmed or altered in such manner as the Treasury may direct.

13. Auditors are requested to make themselves acquainted with the provisions of the Friendly Societies Act, 1896, and of the Industrial and Provident Societies Act, 1893, which affect the exercise of their functions. Their attention is particularly directed to Sections 26, 27,84 and 88 of the Friendly Societies Act, 1896, and to Sections 13, 14, 62 and 65 of the Industrial and Provident Societies Act, 1893.

14. Apart from the above arrangement, the Auditors of the Local Government Board are authorised to exercise, subject to the sanction of that Board previously obtained, the functions of public Auditors in their respective districts, but are not bound to accept any accounts for audit.

15. The Treasury reserves to itself the right of appointing additional Auditors if required.

16. The appointment of public Auditor does not qualify the holder for undertaking valuation business, and it must not be used for obtaining such work.

A public Auditor, not being also a public Valuer, who desires to value Societies under the Friendly Societies Acts, must be either an Associate or Fellow of the Institute of Actuaries in England, or a Fellow of the Faculty of Actuaries in Scotland; and if a public Auditor is found, after the issue of the present conditions, to have valued any such Society without being so qualified, he will be struck off the list of public Auditors.

A public Auditor qualified under these conditions to value Societies under the Friendly Societies Acts must in every case strictly conform to instructions Nos. 5–13, both inclusive, of the instructions issued by the Treasury to public Valuers appointed under the above Acts, and in making valuations for Societies shall not describe himself otherwise than as Associate or Fellow of the Institute of Actuaries, or as Fellow of the Faculty of Actuaries, as the case may be.

A public Auditor who has been found to have solicited business, whether in the shape of audits or valuations, by offering commission or any other pecuniary inducement, either to officers or members of Societies, or to other persons, will be struck off the list of public Auditors.

TABLE

For ascertaining the amount to be charged annually against the Revenue Account and written off a Lease Account in order to exhaust the same at the expiration of such Lease, with interest at 3, 4, 5, 6, 7, 8, 9 or 10 per cent. per annum.

Also for ascertaining the value of a Lease at the above several rates of interest.

The rate per cent. is of course contingent upon many circumstances, but it may be a guide to state that in cases of compensation the Metropolitan Board of Works allow interest to be calculated at the rate of 6 per cent. per annum.

Examples.

1. A Company purchases the seven years' Lease of its business premises for £3476 10s.

Required the sum which should be charged annually against the Revenue Account until the expiration of the Lease.

Interest at 6 per cent. per annum.

£3476 10s. = £3476·5.

Divide 3476·5 by 5·582, the number in the 6 per cent. column on the same line with 7 in the years column in the table. This gives 622·805, or £622 16s. 1d., the sum required.

The Lease Account as it should appear in the Ledger is given on p. 460.

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2. A Lease for fourteen years to make 7 per cent. and to get back the Principal is worth 8·745 or $8\frac{3}{4}$ years' purchase of the Clear Annual Rent.

The Clear Annual Rent is ascertained by deducting from the estimated or improved Rent the reserved Rent, if any, and all Taxes and other annual charges.

TABLE.

Years.	Years' Purchase.								Years.
	3 per cent.	4 per cent.	5 per cent.	6 per cent.	7 per cent.	8 per cent.	9 per cent.	10 per cent.	
½	·489	·485	·482	·479	·475	·472	·469	·465	½
1	·971	·962	·952	·943	·935	·926	·917	·909	1
1½	1·446	1·428	1·411	1·395	1·379	1·363	1·347	1·332	1½
2	1·913	1·886	1·859	1·833	1·808	1·783	1·759	1·736	2
2½	2·374	2·335	2·297	2·259	2·223	2·188	2·154	2·120	2½
3	2·829	2·775	2·723	2·673	2·624	2·577	2·531	2·487	3
3½	3·276	3·207	3·140	3·075	3·012	2·952	2·893	2·836	3½
4	3·717	3·630	3·546	3·465	3·387	3·312	3·240	3·170	4
4½	4·152	4·045	3·942	3·844	3·750	3·659	3·572	3·488	4½
5	4·580	4·452	4·329	4·212	4·100	3·993	3·890	3·791	5
5½	5·002	4·851	4·707	4·570	4·439	4·314	4·194	4·080	5½
6	5·417	5·242	5·076	4·917	4·767	4·623	4·486	4·355	6
6½	5·827	5·626	5·435	5·255	5·083	4·920	4·765	4·618	6½
7	6·230	6·002	5·786	5·582	5·389	5·206	5·033	4·868	7
7½	6·628	6·371	6·129	5·901	5·685	5·482	5·289	5·107	7½
8	7·020	6·733	6·463	6·210	5·971	5·747	5·535	5·335	8
8½	7·406	7·087	6·789	6·510	6·248	6·002	5·770	5·552	8½
9	7·786	7·435	7·108	6·802	6·515	6·247	5·995	5·759	9
9½	8·161	7·776	7·419	7·085	6·774	6·483	6·211	5·956	9½
10	8·530	8·111	7·722	7·360	7·021	6·710	6·418	6·145	10
10½	8·894	8·439	8·018	7·627	7·265	6·929	6·616	6·324	10½
11	9·253	8·760	8·306	7·887	7·499	7·139	6·805	6·495	11
11½	9·606	9·076	8·588	8·139	7·724	7·341	6·987	6·658	11½
12	9·954	9·385	8·863	8·384	7·943	7·536	7·161	6·814	12
12½	10·297	9·688	9·132	8·622	8·154	7·723	7·327	6·962	12½
13	10·635	9·986	9·394	8·853	8·358	7·904	7·487	7·103	13
13½	10·968	10·277	9·649	9·077	8·555	8·077	7·640	7·238	13½
14	11·296	10·563	9·899	9·295	8·745	8·244	7·786	7·367	14
14½	11·619	10·843	10·142	9·507	8·930	8·405	7·926	7·489	14½
15	11·938	11·118	10·380	9·712	9·108	8·559	8·061	7·606	15
15½	12·252	11·388	10·612	9·912	9·280	8·708	8·189	7·717	15½
16	12·561	11·652	10·838	10·106	9·447	8·851	8·313	7·824	16
16½	12·866	11·911	11·059	10·942	9·608	8·989	8·431	7·925	16½
17	13·166	12·166	11·274	10·477	9·763	9·122	8·541	8·022	17
17½	13·462	12·415	11·484	10·655	9·914	9·249	8·652	8·114	17½
18	13·754	12·659	11·690	10·828	10·059	9·372	8·756	8·201	18
18½	14·041	12·899	11·890	10·995	10·200	9·490	8·855	8·285	18½
19	14·324	13·131	12·085	11·158	10·336	9·604	8·950	8·365	19
19½	14·603	13·364	12·276	11·316	10·467	9·713	9·041	8·441	19½
20	14·877	13·590	12·462	11·470	10·594	9·818	9·129	8·514	20
20½	15·148	13·812	12·644	11·619	10·717	9·919	9·212	8·583	20½

TABLE—*continued.*

Years.	Years' Purchase.								Years.
	3 per cent.	4 per cent.	5 per cent.	6 per cent.	7 per cent.	8 per cent.	9 per cent.	10 per cent.	
21	15·415	14·029	12·821	11·764	10·836	10·017	9·292	8·649	21
21½	15·678	14·242	12·994	11·905	10·950	10·111	9·369	8·712	21½
22	15·937	14·451	13·163	12·042	11·061	10·201	9·442	8·772	22
22½	16·192	14·656	13·328	12·174	11·168	10·288	9·513	8·829	22½
23	16·444	14·857	13·489	12·303	11·272	10·371	9·580	8·883	23
23½	16·691	15·054	13·645	12·429	11·372	10·451	9·645	8·935	23½
24	16·936	15·247	13·799	12·550	11·469	10·529	9·707	8·985	24
24½	17·176	15·436	13·948	12·669	11·563	10·603	9·766	9·032	24½
25	17·413	15·622	14·094	12·783	11·654	10·675	9·823	9·077	25
25½	17·647	15·804	14·236	12·895	11·741	10·744	9·877	9·120	25½
26	17·877	15·983	14·375	13·003	11·826	10·810	9·929	9·161	26
26½	18·104	16·158	14·511	13·108	11·908	10·874	9·979	9·200	26½
27	18·327	16·330	14·643	13·211	11·987	10·935	10·027	9·237	27
27½	18·547	16·498	14·772	13·310	12·063	10·994	10·072	9·273	27½
28	18·764	16·663	14·898	13·406	12·137	11·051	10·116	9·307	28
28½	18·978	16·825	15·021	13·500	12·209	11·106	10·158	9·339	28½
29	19·188	16·984	15·141	13·591	12·278	11.158	10·198	9·370	29
29½	19·396	17·139	15·258	13·679	12·344	11·209	10·237	9·399	29½
30	19·600	17·292	15·372	13·765	12·409	11·258	10·274	9·427	30
30½	19·802	17.442	15·484	13·848	12·471	11·305	10·309	9·454	30½
31	20·300	17·588	15·593	13·929	12·532	11·350	10·343	9·479	31
31½	20·196	17·732	15·699	14·008	12·590	11·393	10·375	9·503	31½
32	20·389	17·874	15·803	14·084	12·647	11·435	10·406	9·526	32
32½	20·579	18·012	15·904	14·158	12·701	11·475	10·436	9·548	32½
33	20·766	18·148	16·003	14·230	12·754	11·514	10·464	9·569	33
33½	20·950	18·281	16·099	14·300	12·805	11·551	10·492	9·589	33½
34	21·132	18·411	16·193	14·368	12·854	11·587	10·518	9·609	34
34½	21·311	18·539	16·285	14·434	12·902	11·621	10·543	9·627	34½
35	21·487	18·665	16·374	14·498	12·948	11·655	10·567	9·644	35
35½	21·661	18·788	16·462	14·561	12·992	11·686	10·590	9·661	35½
36	21·832	18·908	16·547	14·621	13·035	11·717	10·612	9·677	36
36½	22·001	19·027	16·630	14·680	13·077	11·747	10·633	9·692	36½
37	22·167	19·143	16·711	14·737	13·117	11·775	10·653	9·706	37
37½	22·331	19·256	16·791	14·792	13·156	11·803	10·672	9·720	37½
38	22·492	19·368	16·868	14·846	13·193	11·829	10·691	9·733	38
38½	22·652	19·477	16·943	14·898	13·230	11·854	10·709	9·745	38½
39	22·808	19·584	17·017	14·949	13·265	11·879	10·726	9·757	39
39½	22·963	19·690	17·089	14·998	13·299	11·902	10·742	9·768	39½
40	23·115	19·793	17·159	15·046	13·332	11·925	10·757	9·779	40
40½	23·265	19·894	17·228	15·093	13·363	11·946	10·772	9·789	40½
41	23·412	19·993	17·294	15·138	13·394	11·967	10·787	9·799	41

TABLE—*continued.*

Years.	Years' Purchase.								Years.
	3 per cent.	4 per cent.	5 per cent.	6 per cent.	7 per cent.	8 per cent.	9 per cent.	10 per cent.	
41½	23·558	20·090	17·360	15·182	13·424	11·987	10·800	9·808	41½
42	23·701	20·186	17·423	15·225	13·452	12·007	10·813	9·817	42
42½	23·843	20·279	17·485	15·266	13·480	12·025	10·826	9·826	42½
43	23·982	20·371	17·546	15·306	13·507	12·043	10·838	9·834	43
43½	24·119	20·461	17·605	15·345	13·533	12·060	10·849	9·842	43½
44	24·254	20·549	17·663	15·383	13·558	12·077	10·861	9·849	44
44½	24·387	20·635	17·719	15·420	13·582	12·093	10·871	9·856	44½
45	24·519	20·720	17·774	15·456	13·606	12·108	10·881	9·863	45
45½	24·648	20·803	17·828	15·491	13·628	12·123	10·891	9·869	45½
46	24·775	20·885	17·880	15·524	13·650	12·137	10·900	9·875	46
46½	24·901	20·965	17·931	15·557	13·671	12·151	10·909	9·881	46½
47	25·025	21·043	17·981	15·589	13·692	12·164	10·918	9·887	47
47½	25·147	21·120	18·030	15·620	13·711	12·177	10·926	9·892	47½
48	25·267	21·195	18·077	15·650	13·730	12·189	10·934	9·897	48
48½	25·385	21·269	18·123	15·679	13·749	12·201	10·941	9·902	48½
49	25·502	21·341	18·169	15·708	13·767	12·212	10·948	9·906	49
49½	25·617	21·413	18·213	15·735	13·784	12·223	10·955	9·911	49½
50	25·730	21·482	18·256	15·762	13·801	12·233	10·962	9·915	50
51	25·951	21·617	18·339	15·813	13·832	12·253	10·974	9·921	51
52	26·166	21·748	18·418	15·861	13·862	12·272	10·985	9·930	52
53	26·375	21·873	18·493	15·907	13·890	12·288	10·996	9·936	53
54	26·578	21·993	18·565	15·950	13·916	12·304	11·005	9·942	54
55	26·774	22·109	18·633	15·991	13·940	12·319	11·014	9·947	55
56	26·965	22·220	18·699	16·029	13·963	12·332	11·022	9·952	56
57	27·151	22·327	18·761	16·065	13·984	12·344	11·029	9·956	57
58	27·331	22·430	18·820	16·099	14·003	12·356	11·036	9·960	58
59	27·506	22·528	18·876	16·131	14·022	12·367	11·042	9·964	59
60	27·676	22·623	18·929	16·161	14·039	12·377	11·048	9·967	60
65	28·453	23·047	19·161	16·289	14·110	12·416	11 070	9·980	65
70	29·123	23·395	19·343	16·385	14·160	12·443	11·084	9·987	70
75	29·702	23·680	19·485	16·456	14·196	12·461	11·094	9·992	75
80	30·201	23·915	19·596	16·509	14·222	12·474	11·100	9·995	80
85	30·631	24·109	19·684	16·549	14·240	12·482	11·104	9·997	85
90	31·002	24·267	19·752	16·579	14·253	12·488	11·106	9·998	90
95	31·323	24·398	19·806	16·601	14·263	12·492	11·108	9·999	95
100	31·599	24·505	19·848	16·618	14·269	12·494	11·109	9·999	100
Perp.	33·333	25·000	20·000	16·667	14·286	12·500	11·111	10·000	Perp.

The Table is taken from the twenty-third edition of "Inwood's Tables," and is printed here with the kind permission of the Publishers, Messrs. Crosby, Lockwood & Co., 7, Stationers' Hall Court, London, E.C.

Ledger Account of a Seven Years' Lease purchased for £3,476 10s. From Date of Purchase to Expiration of the Lease.

(See Explanation of Table, Example 1, page 456).

Date.		£	*s.*	*d.*	*Date.*		£	*s.*	*d.*
Of Purchase.	To Cash	3476	10	0	End of 1st year.	By Revenue Account	622	16	1
End of 1st year	,, Interest at 6 per cent.	208	11	9		,, Balance	3062	5	8
		3685	1	9			3685	1	9
	To Balance	3062	5	8	End of 2nd year.	By Revenue Account	622	16	1
End of 2nd year.	,, Interest	183	14	8		,, Balance	2623	4	3
		3246	0	4			3246	0	4
	To Balance	2623	4	3	End of 3rd year.	By Revenue Account	622	16	1
End of 3rd year.	,, Interest	157	7	10		,, Balance	2157	16	0
		2780	12	1			2780	12	1
	To Balance	2157	16	0	End of 4th year.	By Revenue Account	622	16	1
End of 4th year.	,, Interest	129	9	4		,, Balance	1664	9	3
		2287	5	4			2287	5	4
	To Balance	1664	9	3	End of 5th year.	By Revenue Account	622	16	1
End of 5th year.	,, Interest	99	17	4		,, Balance	1141	10	6
		1764	6	7			1764	6	7
	To Balance	1141	10	6	End of 6th year.	By Revenue Account	622	16	1
End of 6th year.	,, Interest	68	9	9		,, Balance	587	4	2
		1210	0	3			1210	0	3
	To Balance	587	4	2					
End of 7th year.	,, Interest	35	4	8					
		622	8	10	End of 7th year.	By Revenue Account	622	8	10

Model Clauses for Articles of Association.

CAPITAL AND SHARES.

Upon any offer of shares in the capital of the Company to the public for subscription, the Directors shall be at liberty to pay a commission to any person in consideration of his subscribing, or agreeing to subscribe, whether conditionally or unconditionally, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any of the shares so offered, but so that the rate of such commission shall not exceed 10 per cent. of the nominal value of the shares in respect of which such commission is paid.

ALLOTMENT OF SHARES.

The Directors shall not make an Allotment of Shares until they have received a certificate from the Auditors named in the Prospectus that the application money on Shares has been duly lodged with and is in the possession of the Bankers of the Company.

DIVIDENDS, RESERVE, AND RESERVE FUND.

The Board may, with the sanction of the Company in General Meeting, declare dividends to be paid to the members in proportion to the amount called and paid up on their shares.

No dividend, instalment of dividend, or bonus shall be payable except out of profits arising out of the business of the Company, as certified by the Auditors, or in excess of any amount recommended by the Board.

All dividends shall be declared and paid according to the amount paid or credited as paid on the shares, subject, as to shares not fully paid up, to any special arrangement made as regards money paid in advance of calls. As regards shares not fully paid up all dividends thereon shall be apportioned and paid *pro ratâ* according to the amounts called up thereon during any portion or portions of the year, save that as regards any shares contracted to be issued as fully or partly paid under any Agreement entered into by the Company, the same shall be entitled to rank for dividend as from such date as shall be provided by any such Agreement.

The Directors may, if they think fit, from time to time determine on and declare and pay dividends yearly, half-yearly, or at shorter or longer intervals, and declare and pay interim dividends.

The Directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserve, which may at the discretion of the Directors be employed in the business of the Company or for meeting contingencies, for the gradual liquidation of any debt or liability of the company, for repairing or maintaining the works, plant and machinery of the Company, or, with the sanction of the Company in General Meeting, for equalising dividends, or for distribution by way of bonus among the members of the Company for the time being, on such terms, and in such manner as the Company in general meeting shall from time to time determine, or they may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a Reserve Fund for meeting contingencies for the gradual liquidation of any debt or liability of the Company, for repairing or maintaining the works, plant and machinery of the Company, or, with the sanction of the Company in general meeting, for equalising dividends, or for distribution, by way of bonus, among the members of the Company for the time being, on such terms, and in such manner, as the Company in general meeting shall from time to time determine, to be invested upon such securities and in such manner as the Directors think fit, but no part of the said Reserve or said Reserve Fund shall be applied in the purchase of or in loan upon the security of shares of the Company.

The Directors may deduct from any dividend payable to any such member all such sums of money (if any) as may be due and payable by him to the Company on account of calls or otherwise.

Notice of any dividend that may have been declared shall be given in manner hereinafter mentioned to such members as are under the provisions hereinafter contained entitled to receive notices from the Company.

No unpaid dividend, bonus, or interest shall bear interest as against the Company.

Any dividend may be paid by cheque sent through the post to the registered address of the member or person entitled, and in case of joint holders to that one of them first named in the register in respect of such shares. Every such cheque shall be made payable to the order of the person to whom it is sent.

In case several persons are registered as the joint holders of any share, any one of such persons may give effectual receipts for all dividends and payments on account of dividends in respect of such share.

No Shareholder shall be entitled to receive more than £ per cent. dividend on the amount for the time being credited as paid on his shares, in any year until the first Mortgage Debentures have been paid and satisfied. The surplus profits in each year over £ per cent. shall be carried to a special reserve fund, which shall be applied in redemption of the said first Mortgage Debentures

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POLLS.

If at any meeting of the Members a Poll be taken, the Auditors of the Company shall be appointed scrutineers, and they shall be paid for their services as such scrutineers on the scale usually charged by Members of the Institute of Chartered Accountants in England and Wales.

ACCOUNTS.

The Board shall cause Accounts to be kept of the assets and liabilities, receipts and expenditure of the Company. The books of Account shall be kept at the registered office of the Company.

The Books of Account shall be designed and opened by a Chartered Accountant (who may be the Auditor of the Company), who shall be paid for his services on the scale usually charged by Members of the Institute of Chartered Accountants in England and Wales.

Once at least in every year the Board shall lay before the Company in General Meeting a proper Profit and Loss Account for the past year, and a Balance Sheet, showing the assets and liabilities of the Company, and the other debit and credit balances in abstract form of the Ledgers of the Company, made up to a date not more than four months before such meeting, accompanied by a Report of the Board and of the Auditors on the position and transactions of the Company. Such Balance Sheet shall be signed by two Directors and countersigned by the Secretary.

The cost of establishing the Company may be treated as capital expenditure, and

may be spread over a series of years, and the amount of such expenditure for the time being outstanding may, for the purposes of calculating the profits of the Company for the purpose of dividends, be reckoned as an asset.

Any expenditure which has been incurred in any year, but which in the opinion of the Directors may in fairness be distributed over several years, may be so treated, and the amount of such expenditure for the time being outstanding may, for the purposes of calculating the profits of the Company for the purpose of dividends, be reckoned as an asset.

A printed copy of the Balance Sheet and Profit and Loss Account and of the Auditor's Report shall, ten days previously to each meeting, be forwarded by post to every Member.

AUDIT.

Once at least in every year, that is to say, preparatory to the Ordinary General Meeting in each year, save and except the meeting directed to be called within three months of the date at which the Company is entitled to commence business, the Accounts of the Company shall be examined, and the correctness of the Profit and Loss Account and Balance Sheet ascertained by one or more Auditor or Auditors.

The first Auditors shall be Messrs. & Co. Their names shall be printed as Auditors on the Prospectus of the Company, but they shall not be liable for any statement made in such Prospectus, except in respect of any Certificate given by them.

The Auditors shall remain in office until the Ordinary General Meeting of the Members at which the first Profit and Loss Account and Balance Sheet are presented. Subsequent Auditors shall be appointed by the Company in General Meeting, but no Auditors other than the retiring Auditors shall be elected unless their names shall have been forwarded to the Secretary at least three days before the meeting, with an intimation that they are willing to act if elected.

The Auditors must be either Fellows or Associates in Practice of the Institute of Chartered Accountants in England and Wales.

The Auditors may not be members of the Company; and no Director nor other Officer of the Company is eligible during his continuance in office.

The remuneration of the first Auditors shall be fixed by the Directors, that of subsequent Auditors shall be fixed by the Company in General Meeting; but should the Auditors not be satisfied with the remuneration awarded, the matter shall be referred to the President for the time being of the Institute of Chartered Accountants in England and Wales, or to a Member of its Council to be nominated by the said President, whose award shall be binding on the Company and the Auditors.

Any Auditor shall be re-eligible on his quitting office.

If any casual vacancy occurs in the office of any Auditor, the Directors shall forthwith appoint Auditors, who shall remain in office until the Annual General Meeting next ensuing; while any vacancy continues the surviving or continuing Auditor or Auditors (if any) may act.

Every Auditor shall be supplied with a copy of the Balance Sheet and Profit and Loss Account, and it shall be his duty to examine the same, with the Accounts and Vouchers relating thereto.

Every Auditor shall have a list delivered to him of all books kept by the Company, and shall at all reasonable times have access to the books and accounts of the Company. He may, at the expense of the Company, employ solicitors or valuers to assist him in his duties, and may, in relation to such Accounts, examine the Directors or any other officer of the Company.

Every Auditor shall have a right of access, at all times, to the Books and Accounts and Vouchers of the Company, and shall be entitled to require from the Directors and Officers of the Company such information and explanation as may be necessary for the performance of the duties of the Auditors, and the Auditors shall sign a Certificate at the foot of the Balance Sheet, stating whether or not all their requirements as Auditors have been complied with, and shall make a Report to the Shareholders on the Accounts examined by them, and on every Balance Sheet laid before the Company in General Meeting during their tenure of office, and in every such Report shall state whether, in their opinion, the Balance Sheet referred to in the Report is properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs, as shown by the books of the Company, and such Report shall be read before the Company in General Meeting.

So long as any first Mortgage Debentures of the Company are outstanding, the Trustees for the debenture-holders shall be entitled to nominate the Auditor or one of the Auditors of the Company. The other Auditor or Auditors (if any) shall be appointed by the Company in General Meeting.

The Company shall pay to the Auditor nominated by the Trustees for the debenture-holders a fee of £ a year, payable quarterly.

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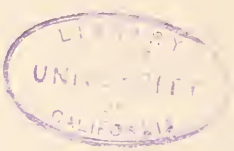

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